

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, October 25, 2016

Lebanon, Virginia

**BOARD MEMBERS:**

Bill Harris—Public Member

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff—Coal Industry Representative

Donnie Rife—Public Member

Mary Quillen—Public Member

**APPEARANCES:**

Bradley Lambert—Chairman of the Virginia Gas & Oil Board

Rick Cooper—Director of the Division of Gas & Oil and  
Principal Executive to the Staff of the Board

Sarah Gilmer—Staff Member of the Division of Gas & Oil

Sally Ketron—Staff Member of the Division of Gas & Oil

Paul Kugelman, Jr.—Senior Assistant Attorney General

*Prepared by: Margaret Linford*

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1 **Bradley Lambert:** Good morning! It's time to begin our proceedings, this morning. First of  
2 all, I would like to ask, if you have cell phones or other communication devices, if you could  
3 please put those on vibrate or silence those? If you need to take a call, please do so out in the  
4 hall. We'll begin, this morning, by asking the Board to please introduce themselves. I'll begin to  
5 my left.

6 **Paul Kugelman:** Paul Kugelman, with the Virginia Attorney General's Office.

7 **Bradley Lambert:** I'm Butch Lambert, with the Department of Mines, Minerals and Energy.

8 **Donnie Ratliff:** Donnie Ratliff, representing coal.

9 **Donnie Rife:** Donnie Rife, citizen appointed from Dickenson County.

10 **Bill Harris:** I'm Bill Harris, a public member from Wise County.

11 **Bruce Prather:** I'm Bruce Prather. I represent the oil and gas industry, on the Board.

12 **Mary Quillen:** Mary Quillen, public member.

13 **Bradley Lambert:** Thank you.

14 **Item Number 1**

15 **Bradley Lambert:** At this time, we'll enter into public comment. I'll ask those that are coming  
16 forward to please state your name, for the record. I have, signed up this morning, Brenda Justice.

17 **Brenda Justice:** I'm Brenda.

18 **Bradley Lambert:** Do you want to come on up? Ms. Justice, if you'll sit in front of one of the  
19 microphones, please, and state your name, for the record.

20 **Brenda Justice:** I'm Brenda Justice.

21 **Bradley Lambert:** Good morning.

22 **Brenda Justice:** My address is 1101 Long Wall Lane; Raven, VA.

23 **Bradley Lambert:** Good morning.

24 **Brenda Justice:** Hi. I've just got another question. I haven't got my money, yet, but Rick said  
25 they're working on it. If she's got these split agreements on Grundy, that's why we had Levin  
26 White to look into it. How come she put all of our money in escrow instead of going ahead and  
27 mailing it to us? Anita Duty. If they're agreeing that that split-agreement is legit, which we  
28 know it ain't, how can she keep putting our money in escrow and we can't get it?

1 **Donnie Rife:** It's better to put it in the escrow that to put it somewhere, where it's not supposed  
2 to be.

3 **Brenda Justice:** Everybody else is getting theirs mailed to them. That's what I couldn't figure  
4 out, but Rick Cooper told me they were working on getting the back...you know.

5 **Bill Harris:** Mr. Chairman, let me just ask who is the split agreement with?

6 **Brenda Justice:** It's supposed to be with me, with CNX.

7 **Bradley Lambert:** Rick, can you give us an update?

8 **Rick Cooper:** I guess Anita would need to speak on that, but I think the split agreement was  
9 Hurt McGuire and you all. Correct? CNX is now leasing from them. We do have a couple of  
10 items. I guess she's involved in a couple of the gobs that we have not processed, but there's some  
11 pending documents that I'm not sure why they have not been submitted. I really don't know the  
12 answer to that.

13 **Bradley Lambert:** Ms. Justice, the Board will ask Mr. Cooper to follow up on that, with CNX,  
14 and get back with you, as soon as possible.

15 **Brenda Justice:** All right. Thank you.

16 **Bradley Lambert:** Thank you, Ms. Justice.

17 **Brenda Justice:** Sorry to waste your time.

18 **Bradley Lambert:** That's no problem. Thank you. Is there anyone else in the audience that  
19 didn't sign up, that would like to speak? [No response] If not, we'll move to Item Number 2, on  
20 our agenda, this morning.

21 **Item Number 2**

22 **Bradley Lambert:** The Board will hear from First Bank and Trust, this morning, if you folks  
23 would please come forward. Good morning.

24 **Jody Maney:** Good morning.

25 **C.J. Carter:** Good morning.

26 **Jody Maney:** We have the 3rd Quarter Summary, for 2016. Page 2 starts out our agenda. This  
27 is the items that we will discuss. Page 3, we started out with the beginning balance on July 1,  
28 2016: \$21,744,395.40. We've had deposits of \$96,397.86. Interest earned, whether it be money  
29 market, Seeders CD interest: \$12,211.91. Fees of \$5,372.72. Total distributions, just for this  
30 quarter: \$1,146,655.86. Adjustments were \$145.78, bringing us down to our ending balance, as

1 of September 30, 2016: \$20,701,122.37. Starting on Page 4, this is a list of all of the  
2 outstanding checks. This goes through Page 22. On Page 22, it gives you a breakdown of which  
3 gas company has the outstanding checks: CNX, EQT, Range Resources, which is now EnerVest,  
4 and a total of \$226,434 roughly. These are all the outstanding checks, since the bank took over,  
5 as Escrow Agent, whether they were issued on September 30 or 2010.

6 **Bradley Lambert:** Can we stop there, just a second, on the outstanding checks? Looking at  
7 some of these, some of these go back to 2013, 2014, but the majority of these are from, well, the  
8 earliest one here is in May 2016. Do we know why those checks are still outstanding? Do you  
9 have any feedback? Rick?

10 **Jody Maney:** We have had some been returned.

11 **Rick Cooper:** We don't know about all these. A lot of people call in and just refuse to cash  
12 them. There's all kind of conditions. They think, if they cashed one, that they've entered into  
13 some type of agreement, which they haven't. Sometimes, they don't want the taxes. There's  
14 various reasons. A lot of people just do not respond or just do not cash the checks. We don't  
15 know why they do not.

16 **Donnie Rife:** Don't they have, like, 180 days to cash those checks?

17 **Rick Cooper:** I think CNX, after a couple of years, will actually re-issue the check. So, it could  
18 be five years before the bank would escheat it. Right, five years before the bank would escheat  
19 it? So, the last time we got into this, when it got really close, Ms. Gilmer had contacted several  
20 people and almost every one of them cashed their check, but one. Is that not correct, Sarah?

21 **Sarah Gilmer:** Yes.

22 **Rick Cooper:** So, everybody, but one. We give them six months or a year just to see what  
23 they're going to do. Sometimes they call uncles and nephews and cousins and, if they agree to  
24 cash, they'll cash theirs. I really don't know why they do not on all of them.

25 **Bradley Lambert:** That's several pages of checks that are not cashed.

26 **Rick Cooper:** Most are this year.

27 **Mary Quillen:** It looks like there's only four that are really, really old...2013 and 2014.

28 **Jody Maney:** If you'll look on the next page, those are the ones that are really old, that will be  
29 escheated in 2017. The 2016 ones have just been escheated, this month. We sent the four that  
30 were five years old, to the State.

31 **Bruce Prather:** That escheating date has already been set up, for these checks?

1 **Jody Maney:** Yes, for these four. We've already submitted those to the State, just within the  
2 last week.

3 **Donnie Rife:** Do you think it would be beneficial to contact these people?

4 **Bradley Lambert:** Donnie, I don't think we have the resources to contact each. We're talking  
5 about hundreds of people. Our staff just don't have the resources or the time to do that. Let me  
6 ask another question. These checks that are already written, are they still credited in the account,  
7 or are they taken out and issued as part of the disbursements?

8 **Jody Maney:** They're in the disbursement total.

9 **Bradley Lambert:** Okay. Thank you.

10 **Jody Maney:** Any other questions? [No response] On Page 23, like I said, this is what has been  
11 escheated, these top ones. \$7.85 has been escheated to the State, within the last week. The total  
12 for 2017, if these are not cashed, will be escheated next year, for \$1,250.93. Starting on Page 24,  
13 this is only for the month of September. This is the funded units for the month of September, in  
14 order by account number: beginning balance, deposit type, deposits, money market interest,  
15 Seeders interest, less fees, less distributions, any transfers to the No W-9 spreadsheet, any  
16 corrections, and the ending market value. The total's on Page 38, ending market value of  
17 \$20,627,531.98. At the end of the No W-9 spreadsheet, on Page 46, the ending market value in  
18 the No W-9 account is \$73,590.39. That's a total of 489 lines on the No W-9 spreadsheet.

19 **Donnie Ratliff:** What page is that total on?

20 **Jody Maney:** 46, on the No W-9 spreadsheet

21 **Bradley Lambert:** Is that number growing or are we bringing that down, on not receiving W-  
22 9's?

23 **Rick Cooper:** I would say those are all EnerVest, so it's, pretty much....

24 **Jody Maney:** EnerVest and there's a few EQT.

25 **Rick Cooper:** It's stayed pretty stable. We get one, every now and then, but it's not changing all  
26 that much. We may be adding one or two.

27 **Jody Maney:** We add a few and, then, there's six or eight, maybe, during the month, that come  
28 off. Usually, it's to the same people that are on there numerous times.

29 **Donnie Rife:** And, these are people that not been signing the W-9's.

30 **Jody Maney:** They're not returning the W-9.

1 **Rick Cooper:** So, to answer your question, it's staying about balanced, where it's at. It's not  
2 changing too awful much, is it, Ms. Maney?

3 **Jody Maney:** Not a tremendous amount.

4 **Bradley Lambert:** Okay.

5 **Jody Maney:** There is a lot of people that are on the No W-9 spreadsheet, that are entitled to  
6 this money, if they would send the W-9 in.

7 **Donnie Ratliff:** So, Mr. Chairman, does that just sit there or, after five years, is that escheated?

8 **Bradley Lambert:** That's a good question.

9 **Donnie Ratliff:** There's not a check been issued.

10 **Jody Maney:** That just sits there. There's not a check that's been issued to these people. It's just  
11 transferred out into a separate account and held until they send their W-9 in. Then, once they  
12 send the W-9 in, then I would issue a check to them. At that point, it starts the five-year  
13 escheatment, once the check has been cut.

14 **Donnie Rife:** After five years, it does what?

15 **Jody Maney:** Once the check has been cut to the people, then that starts the five-year  
16 escheatment. So, right now, it's just sitting in an account, waiting for them to submit their W-9.

17 **Rick Cooper:** I guess they could sit there indefinitely, then. Correct?

18 **Jody Maney:** Yes, and not be escheated to the State.

19 **Mary Quillen:** That five-year time frame doesn't start until you do get the W-9.

20 **Jody Maney:** And a check has been cut. Yes.

21 **Mary Quillen:** And you don't cut the check until you do get a W-9?

22 **Jody Maney:** Until I get a W-9, yes.

23 **Mary Quillen:** Right.

24 **Bruce Prather:** Does the State have any rules governing the time period when these things start  
25 on that escheat record?

26 **Jody Maney:** Only after we have disbursed the check. If we have had no communication with  
27 that person in five years, if we've not issued them another check and they've cashed that check,  
28 then the five years would start over. These people that have been escheated, this year, they do



1 not have any relationship with First Bank and Trust, that we could deposit the money into or re-  
2 issue them a cashier's check or anything like that. So, their money is submitted to the State.

3 **Mary Quillen:** When that list is published, they can contact the State?

4 **Jody Maney:** Yes.

5 **Bill Harris:** When you say that list is published, that list is published?

6 **Mary Quillen:** Yes.

7 **Jody Maney:** There's a list on the State's website, of escheatment.

8 **Bill Harris:** Okay.

9 **Bruce Prather:** Should it be advertised in the newspaper?

10 **Mary Quillen:** It is. It's in the newspaper, too.

11 **Donnie Ratliff:** Mr. Chairman.

12 **Bradley Lambert:** Mr. Ratliff.

13 **Mary Quillen:** In recent years, it has been. I don't know if it's always been, but I know in  
14 recent years...

15 **Donnie Ratliff:** Does this Board have the authority to set up a timeline that, if they don't return  
16 the W-9 within five years, that that money would go back into our miscellaneous account that we  
17 use to supplement shortages?

18 **Paul Kugelman:** Supplement shortages for?

19 **Donnie Ratliff:** When we have discrepancies in the bank account.

20 **Paul Kugelman:** If you want me to look into it more carefully, I will, but I don't think so. The  
21 reason I say that is because it still is somebody's money, even though they won't come forward  
22 and claim it. There are specific statutory provisions for dealing with that, but the Board's not  
23 vested with that authority, specifically. That's vested to the Treasury Department.

24 **Donnie Ratliff:** Okay.

25 **Paul Kugelman:** If you want me to look into it, I'll be happy to.

26 **Donnie Ratliff:** This is going to grow, so we need to do something. We need to resolve this.

27 **Paul Kugelman:** I understand.

28 **Donnie Ratliff:** Thank you.

1 **Jody Maney:** Any other questions on those? [No response] On Page 47, this is a list of the  
2 unfunded units. There's five unfunded units, remaining. I know Mr. Cooper and his staff have  
3 worked very hard to clear those up.

4 **Bradley Lambert:** How are we doing with that, Mr. Cooper?

5 **Rick Cooper:** Ms. Duty. I guess the question has come up about the five unfunded accounts  
6 that CNX still has, outstanding. Can you give us a progress report on that?

7 **Anita Duty:** All of those accounts have been in the process of entering, I think this month's  
8 accounting period, so they should show up in the next, in Jody's next report. So, it's just a matter  
9 of they've been sent there, just not posted. All the accounts should be funded now. I sent you  
10 the updates every time the accounting department gave me an update....

11 **Rick Cooper:** I guess to answer the Board's question, I'll have to report that out in November,  
12 when the deposits are made. Correct?

13 **Anita Duty:** I can send you confirmation or I can show you the confirmation or the spreadsheet  
14 that we send Jody.

15 **Rick Cooper:** So, those deposits haven't been made, as of yesterday, in those five accounts.

16 **Anita Duty:** They'll be the 25th or 26th, which is today.

17 **Rick Cooper:** Yes. I guess we'll report that out at the next Board meeting. Currently, we have  
18 five outstanding unfunded.

19 **Bradley Lambert:** All right.

20 **Rick Cooper:** We'll look for a deposit today or by the end of the month.

21 **Jody Maney:** Okay, which will be reflected in the October spreadsheet.

22 **Bradley Lambert:** Okay. Thank you.

23 **Jody Maney:** The next page is the annual distributions, starting from when the bank began, as  
24 Escrow Agent, in 2010, through 2016. The royalty and working income we have received for  
25 2016, January through September, is \$313,701. The distributions that have been paid, January  
26 through September, is \$5,547,431, for the year 2016. 2015, for the entire year, was \$4,492,896.  
27 So, we've exceeded last year's distributions.

28 **Bradley Lambert:** That's great.

29 **Jody Maney:** Any questions on that? [No response] Page 49 is a summary of the investments.  
30 We have money market interest, money market Seeders, a First Bank and Trust CD for

1 \$250,000, and then two brokered CD's, totaling \$378,000. Total dollars invested is \$20,701,163,  
2 with the majority of it being in ICS money market.

3 **C.J. Carter:** Okay. Unless there's any questions, we'll go to the next page, Page 50. I'll be  
4 brief, here, on the next several pages. This is just a simple snapshot of the yields, which was  
5 evident in the last page, as well, showing the brokered CD's, the Seeders rate, the two brokered  
6 CD's and the CD that's held, directly, with First Bank and Trust. We put those respective rates  
7 on there and what kind of the blended annual yield or the annual interest received on these  
8 invested monies are. You can see, at the time, we have a very small amount actually in brokered  
9 CD's, again, with the bulk remaining in the ICS money market, \$500,000 in Seeders and  
10 \$250,000 held, directly, with First Bank and Trust. Moving on to the next page, what we've  
11 shown here are a couple of CD rates, the best CD rates we can get, either through direct or a  
12 brokered CD that's traded. The rates right here, the DTC is the brokered CD market. I've listed  
13 the rates between 3 months all the way going out to 3 years. You can see it starts at a .5% at 3  
14 months and goes out a 3-year, at 1.25%. The next page, or a couple pages below, will show the  
15 comparison between trade and treasury rates. Before we do that, I did want to mention interest  
16 rates have been.... Many people in the market, many investors have anticipated interest rates  
17 increasing, for some time. Of course, that hasn't happened, but we did list the probability of a  
18 rate hike by the Federal Reserve. This is a consensus expectation. It does not reflect our  
19 opinion. We simply wanted to state that. If you look at the December meeting and then going  
20 into the early meetings of 2017, as of now, there's a high consensus they're going to raise the  
21 short-term rate, which would have an impact on some of these CD rates, certainly, if that did  
22 happen. Of course, we have no opinion on whether that will happen, or not, but we simply  
23 wanted to show that information. The probabilities have increased, now, relative to in the past.

24 **Mary Quillen:** The short-term, what is that time frame that you're looking at, the probability for  
25 the short-term?

26 **C.J. Carter:** At their November meeting, which is in a couple weeks, it's a relatively low  
27 probability that they're going to raise the short-term interest rates, but you can see that the next  
28 meeting date is in December.

29 **Mary Quillen:** I'm sorry.

30 **C.J. Carter:** That's okay.

31 **Mary Quillen:** I wasn't looking. I was looking up at the rates. Thank you.

32 **C.J. Carter:** Yes. Unless there are any questions, we'll move on. I wanted to take a second  
33 and, again, reiterate the differences between accessing the money that's invested in CD's. When  
34 I talk about Seeders, these are, as you probably heard me speak before and it's been in these  
35 presentations, Seeders are all FDIC insured. It's a program, whereby the FDIC coverage is  
36 simply brokered out to different banks, so the First Bank and Trust can hold those monies, except

1 it's brokered out, from an insurance perspective. The real negative for the Seeders rates that are  
2 utilized in Seeders CD's, would be the early withdrawal penalties. They can be substantial. I've  
3 listed out here, under the cons on Page 52, I really wanted to bring this to everyone's attention.  
4 The shorter the Seeder's term is, so it could be up to 13 weeks, 100% of all interest would be  
5 forfeited. There's a possibility that it will invade principal, as well. Essentially, how this works  
6 is that if the term is short enough, they're going to calculate the penalty, the interest, over the  
7 entirety of the term. So, if you had a 2-month CD and you withdrew and only had it for one  
8 month, you're still responsible for two month's worth of interest. So, that one month of interest  
9 would be kind of credited to principal. So, I just wanted to make sure everyone is aware of that.  
10 That's, certainly, a negative with these early withdrawal penalties, associated with the Seeders  
11 program. Also, our bank has no control over that. That's through the Seeders program. So, it's  
12 not like First Bank and Trust has any control over early withdrawal penalties.

13 **Mary Quillen:** I think that we looked at that when we first started looking at this to be sure and  
14 that's the reason we keep that in that money market, so we will not have to do that because we  
15 have had some of those short-term, like 6 months and a year. So, we won't have to go to those if  
16 our distribution. That's the reason. So, I think that we have looked at that or you all looked at  
17 that when we first started this with you all. I think that it's gone very well because we have not  
18 had to forfeit anything because we have managed to keep that money market account for our  
19 disbursements that we can....

20 **C.J. Carter:** That's correct. We have gone over this before. I just wanted to bring it up, again.

21 **Mary Quillen:** Okay. Thanks.

22 **C.J. Carter:** No problem. On that light, we'll talk about brokered CD's, or what I've labeled  
23 here as, "DPC." They still have the FDIC insurance, which is the first, primary, criteria. They,  
24 generally, have higher rates than the Seeders program. There's no early withdrawal penalties;  
25 however, they are subject to market fluctuation. So, if you sold a brokered CD before it matured,  
26 you could sell it for a little bit more or for a little bit less. There's no way to know that. It  
27 depends on the fluctuation of interest rates during that term. So, it could end up off-setting all  
28 interest or more or a portion of it, so there's really no right or wrong. I just wanted to make sure  
29 everyone was aware of the early withdrawal penalties or liquidating some of these CD's before  
30 maturity. I just wanted to make sure everybody understood that.

31 **Bill Harris:** Mr. Chairman?

32 **Bradley Lambert:** Mr. Harris.

33 **Bill Harris:** Let me just ask a question.

34 **C.J. Carter:** Sure.

1 **Bill Harris:** On the previous page, you were talking about the probability of the rates changing  
2 or, at least, I would imagine increase. When we purchase CD's of any type, we're locked into  
3 that rate for the term. Is that correct? They don't float with the interest rate or anything like that?

4 **C.J. Carter:** That is correct. If you purchase a CD, you have the stated interest rate. That's  
5 correct.

6 **Bill Harris:** So, I know, in the past, when we've recommended using more money to buy CD's  
7 or whatever, would it be your recommendation to wait until the end of the year, to see what the  
8 interest rates are going to do, before making a move, in that regard?

9 **C.J. Carter:** I don't think I can make a recommendation. I don't know, of course, what the  
10 decision will be in the next meeting or the meeting after. I do know the market anticipates these  
11 decisions. They're, certainly, looking at these probabilities. That already, potentially, could be  
12 reflected in the rates, already. Therefore, it would be minimal impact, if it does happen. So, I  
13 think that's why you would have a laddering approach. You would have CD's in different  
14 maturities, to kind of mitigate that risk, which is what we currently.

15 **Mary Quillen:** I think that's what we have done to help to overcome that possibility that that  
16 would happen, but since we have done this since we started with First Bank and Trust, we have  
17 never had to liquidate anything, as far as the Seeders or the CD's because we've always kept sort  
18 of an eye on the future for distribution through the money market account. Even though the rate  
19 of interest is much lower on that, we still have the higher interest rates. We have not been  
20 impacted by that, in any way.

21 **C.J. Carter:** That's correct. We have never had to liquidate a CD.

22 **Mary Quillen:** I think that was the whole point of doing that, at the recommendation that First  
23 Bank and Trust gave us, when we first set these up. Thank you.

24 **C.J. Carter:** The next page is, simply, a rate comparison of the kind of very no-risk options,  
25 here, or fairly low-risk, talking about Treasury rates and CD rates. Simply, what we've shown  
26 here is a chart and, then also, at the bottom of the page, showing what the Treasury rates are,  
27 comparing with the last meeting, in July. You can see that the Seeders rates have been very  
28 sticky, or have not changed across the spectrum of one month to three years. They've stayed,  
29 essentially, the exact same. Treasury rates have increased, pretty much, across the board, from  
30 July to October, yet they still remain lower than CD rates. I think it's, certainly, worth  
31 monitoring, if Treasury rates ever did become higher than CD rates. I think it, certainly, would  
32 be worth consideration to look at treasuries, as a possible investment opportunity. You can see  
33 the DTC rates have actually gone down on the 1, 3 and 6-month and the 1-year and have edged  
34 up a little bit in the 2 and 3-years. So, rates have actually gone down, generally speaking, across  
35 those terms, for the last three months. Again, this is just for comparison purposes. Any  
36 questions?

1 **Bill Harris:** One other. I'm just trying to look at our investment of funds, on Page 49. I really  
2 don't recall, but we usually go out two years. Have we gone out three years on any of our  
3 investments?

4 **C.J. Carter:** I don't believe so. I believe a year has been the longest, under your direction.

5 **Bill Harris:** Okay. Thank you. I'm just curious.

6 **C.J. Carter:** Okay. We've been asked, at the last meeting, that we were in attendance, to maybe  
7 put together a recommendation on how to, perhaps, reallocate \$5,000,000 that's currently in the  
8 ICS money market into something longer-term. We have put together three different proposals.  
9 They're very similar. The only difference, really, is in the rates, on how far the committee would  
10 be willing to go out, in terms of maturities. So, I'll just kind of, real quickly, talk through the  
11 proposals. I anticipate some questions. Please stop me any time. I'd be more than happy to  
12 answer them. The first proposal that we've put forth would be a very short-term proposal. This  
13 is on Page 54. You can see here, 3-months, 6-months, 9-months and 1-year CD's we purchased.  
14 These would all be brokered CD's, simply because the rates are much higher than we can get in  
15 the Seeders program, especially for the short-term. So, you can see the corresponding rates, here  
16 at 50 basis points or .5% for 3 months, going up to about 76 basis points for the 12-month. You  
17 kind of get a blended rate of 0.63%. You can see it's not a perfect allocation of the amount for  
18 each maturity, but it's pretty close. You can see it's \$1,000,000 for the 3-months. Then, it jumps  
19 to \$1,250,000 for 6-months and back to \$1,000,000 at 9-months and \$1,750,000 for the 12-  
20 month. This is just a proposal. Whatever the Board decides to do, we can do any piece. This is  
21 just three proposals. So, if you wanted to do all one term, we certainly could.

22 **Mary Quillen:** Are all three of these proposals for these brokered CD's?

23 **C.J. Carter:** No. Some will have the Seeders CD's in there, as well.

24 **Mary Quillen:** I'm getting ahead of you.

25 **C.J. Carter:** No, that's a great question. These are all brokered CD's, though, for this first  
26 proposal.

27 **Mary Quillen:** Okay, just the first one.

28 **C.J. Carter:** Just the first one, yes. The second proposal, we're going a little further out. It  
29 starts at 6-months and goes all the way out to 18-months, with 6, 9, 12 months and, then 18-  
30 months. In this proposal, the 6-month, 9-month and 12-month, would be all brokered CD's. The  
31 18-month would actually be a Seeders CD and that rate is higher than we can get in the brokered  
32 market, or at least, matching what we can get in the brokered market. You can see that that's  
33 1.1%, for the 18-months and kind of blended rate, for this proposal, was certainly higher than the  
34 first one, at 0.79%. It's higher because we're going further out. We're getting more interest for  
35 the longer CD maturities that are selected. The third proposal, these are all CD's, of course. It

1 goes even further out. It goes from 12-months, 18-months, 24-months and 36-months, at 3 years.  
2 These would almost all, or entirely, Seeders. We, certainly, could mix some brokered CD's in  
3 there and might have to. I want to take a second to, how the brokered CD market works are there  
4 are banks that need to raise funds and they'll have an allotted amount, maybe it's \$5,000,000 or  
5 \$10,000,000, and once that amount has been filled, then they're kind of out of the market. So,  
6 each day, that could change. You know, the amount availability and the rates, but typically they  
7 stay very constant. This proposal, again, mostly would be Seeders and, going further out, the  
8 blended rate would be 1.09%, which is certainly the highest of the three proposals, but you're  
9 going the furthest out, in terms of maturity. So, as everyone knows, a lot of this would depend  
10 on the anticipated distributions and how much we have remaining in the ICS money market,  
11 which is very liquid, versus how much you really want to push out a little bit further. There are,  
12 of course, these early withdrawal penalties associated with it the further you go out, if you try to  
13 liquidate before maturity.

14 **Mary Quillen:** These new investments, are you suggesting that we begin this at the beginning  
15 of the new year or during this 4th quarter?

16 **C.J. Carter:** I really have no recommendations. It could be done either way. Again, that's kind  
17 of getting back to having the different maturities kind of spread out kind of mitigates any risks.

18 **Mary Quillen:** I think the 6 and the 12-months, particularly now that we have aggressively been  
19 really pushing for these distributions.... This is just my personal opinion. 6-month and 12-  
20 month, I think is really good for us. I would be a little nervous going out beyond 12 months, but  
21 that's just my personal opinion. Particularly, we want to be sure that we have the cash flow to  
22 continue these distributions. We have no way of knowing. It might be a period of time that we  
23 would not have that many and, then, all of sudden, we'd just have a lot. Then, we would be  
24 forced to, maybe, take a loss. Obviously, we would have to do that. That's my concern. I'm just  
25 very conservative.

26 **Bruce Prather:** I think this thing set up originally to cover the fees. In other words, the fees  
27 that was involved in taking care of this account. So far, we've been able to get enough interest  
28 off of this account to pay those fees.

29 **Mary Quillen:** Right.

30 **C.J. Carter:** I can't speak to how it was set up, but you're correct. The interest earned has  
31 exceeded the fees.

32 **Bruce Prather:** See, that was our problem, prior to having you people do it, was that sometimes  
33 we weren't matching the fees and we were having to get into the principal.

34 **Mary Quillen:** Those of us that have been around for a long time are a little gun-shy because of  
35 past history, prior to beginning our relationship with First Bank and we have had no problems

1 with you folks and we really appreciate that. We get a little nervous because, as Bruce just  
2 mentioned, some of the past things that we have.... He's right. The interest has covered the fees.

3 **Bill Harris:** This \$5,000,000 is 25% of the \$20,000,000 that's a balance, now?

4 **C.J. Carter:** Right. I would mention that, even if worst case scenario, all \$5,000,000 had to be  
5 liquidated prior to maturity, my guess is the interest earned, even the 20 basis points on the liquid  
6 amount would probably offset that or come very close to doing so because it's only 25% of the  
7 total outstanding.

8 **Bruce Prather:** If I was inclined to do anything, I would recommend we go out the extra six  
9 months and see how things work out.

10 **Bill Harris:** 12, 18 or 36.

11 **C.J. Carter:** You can do any combination of any of these. These are just three proposals I put  
12 together, more for discussion purposes. I do want to state these are just CD's. I didn't consider  
13 any Virginia taxable monies, that are highly rated, or any corporate bonds, that are highly rated.  
14 That's, certainly, something to consider. I'd be more than happy to put something together next  
15 time, for that. You could earn a little more, in terms of return, but you're certainly taking a little  
16 more risk, credit risk, associated with that. Perhaps, once there is a better idea of what funds will  
17 likely be here for many years, then perhaps that would be a better time to think about longer-term  
18 investment options; nevertheless, I wanted to mention that.

19 **Donnie Ratliff:** Mr. Chairman.

20 **Bradley Lambert:** Mr. Ratliff.

21 **Donnie Ratliff:** On Page 48, on your distributions, the \$5,547,000 that's been distributed in  
22 2016, that's through the end of September. Right?

23 **Jody Maney:** Yes.

24 **Donnie Ratliff:** So, if you extrapolate that out, that's going to be about 7.4 million. That would  
25 be the biggest year we've had. We still have 20 [million].

26 **Mary Quillen:** If we take 25% of that, that's going to back us back to 15 million.

27 **Donnie Ratliff:** The biggest year we've had, with 7.4.

28 **Bradley Lambert:** I think we also have to take into consideration, we did talk about this, the  
29 funds that, potentially, could be escheated. Also, we need to consider that the funds that are in  
30 that Yellow Poplar, that there's a lawsuit pending. That money may be paid all at once. We  
31 don't know how that lawsuit may be settled. That's 4 million.

32 **Rick Cooper:** The last we calculated, 4.2 million, for Yellow Poplar.



1 **Mary Quillen:** So, that would back it down, if that were the case, just a little over 10 million, if  
2 that should come to pass.

3 **Bradley Lambert:** So, given that fact, those two things, a year would be a long time for us to  
4 even consider any long-term investments.

5 **Bill Harris:** Of course, there are going to be deposits, too.

6 **Bradley Lambert:** There will be, but we can see that the deposits are reducing, which is a good  
7 thing. More money is going out than coming in. That's what we'll have to see.

8 **Mary Quillen:** Right. We want to be sure that we've got all our bases covered when that time  
9 for that pay-out comes.

10 **Bradley Lambert:** So, we're looking at a potential \$10,000,000 that could happen in a very  
11 short period of time, to come out of the fund.

12 **Donnie Rife:** How long has this been pending? A very short period of time with Yellow Poplar.

13 **Bradley Lambert:** It's been pending a long time, but...

14 **Paul Kugelman:** The trial is set for January or February. February 1-14 is when the trial is set  
15 on the property ownership. Then, if they prevail in the property ownership, there will be another  
16 trial set for damages. That will actually impact us, directly, if they prevail, in property interest  
17 claim.

18 **Mary Quillen:** February 14 is not that far away. How long would you say that this would be in  
19 litigation?

20 **Bradley Lambert:** It's been for years, but...

21 **Mary Quillen:** I know it has been, but there's never been a date set until just recently.

22 **Paul Kugelman:** It could end February 14, if everybody agrees to move along, quietly, after  
23 the...

24 **Mary Quillen:** Oh, okay.

25 **Paul Kugelman:** Let me cover the waterfront, here.

26 **Mary Quillen:** Yes.

27 **Paul Kugelman:** If the plaintiffs lose and they do not appeal to the 4th Circuit, which I think is  
28 unlikely, but if they did, then it would end somewhere around the middle of February. If they  
29 lose and they appeal to the 4th Circuit, that would add three months and that would depend on

1 what the 4th Circuit said. So, going to the outside, so the short-term. The long-term is, I would  
2 imagine, less than 2 years because, after that point, it's just a damages issue.

3 **Mary Quillen:** Right.

4 **Donnie Rife:** As long as this has been pending, I'd say 2 years is going to be, even on the long  
5 end of it's going to be real quick.

6 **Paul Kugelman:** Yes, sir.

7 **Donnie Ratliff:** So, we escrowed the money to protect the correlative rights, so how can we be  
8 charged with damages?

9 **Paul Kugelman:** I don't want to get into a full-blown litigation analysis, from the  
10 Commonwealth's perspective because I don't want to divulge anything that's protected by  
11 attorney-client privilege, but I will say that, regardless of whether the Commonwealth is actually  
12 found to be liable for any kind of damages to Yellow Poplar, if they are deemed to have the  
13 property rights, they would be deemed to have their money. The concern isn't so much that the  
14 Commonwealth is found liable. The concern is that we have a sudden draw on the funds,  
15 regardless of our liability. Does that answer your question, sir?

16 **Donnie Ratliff:** Yes.

17 **Donnie Rife:** I understand your question because we've done everything we can to protect their  
18 money and their interest and we're still held liable?

19 **Paul Kugelman:** There is no foregone conclusion that we're at risk.

20 **Donnie Ratliff:** We've got two items that's going to come due in December. Right?

21 **C.J. Carter:** That's correct, two brokered CD's are coming due in December.

22 **Donnie Ratliff:** Those total?

23 **Jody Maney:** \$378,000.

24 **Bradley Lambert:** So, we're still going to need to make a decision, by December, on what to do  
25 with those that we have coming due.

26 **C.J. Carter:** That's correct. Absent any direction, then it would just flow into the money  
27 market account.

28 **Bill Harris:** I'm still kind of intrigued by the possibility of the interest rates going up. I was  
29 wondering if we make a decision now and, then, next month, they're up .1% or ten basis points  
30 or something. I don't know if they would jump that much, but I guess what I'm suggesting is  
31 maybe wait and see what happens.

1 **Donnie Ratliff:** So, if we wait until December, we're still okay making a decision on the  
2 investments?

3 **Bill Harris:** Sure.

4 **Mary Quillen:** I definitely think we should wait until December.

5 **C.J. Carter:** As long as I have clear direction on how to act from you, that's fine.

6 **Bradley Lambert:** Okay. So, no action. You would just roll them over into the money market.

7 **C.J. Carter:** That's correct.

8 **Bradley Lambert:** Okay. I think that will be a good option.

9 **Mary Quillen:** Yes.

10 **Bradley Lambert:** For right now. Then, by next quarter, we still don't know what may or may  
11 not happen during the General Assembly, as far as the escrow account. We haven't heard of  
12 anything, but that doesn't mean that some legislation may be introduced that would affect this.  
13 By February, we may have some, a clearer understanding, of what may be happening with  
14 Yellow Poplar, so my suggestion is that we just let it go, as it is for right now. Any other  
15 recommendations from the Board?

16 **Bill Harris:** I agree.

17 **Mary Quillen:** We don't know what the General Assembly may do. We need to tread lightly.

18 **Donnie Ratliff:** We really, really appreciate you guys.

19 **Bradley Lambert:** Absolutely.

20 **Mary Quillen:** Yes.

21 **Bradley Lambert:** We certainly do. I'm sure that Rick and his staff appreciate it, as well.

22 **Rick Cooper:** Yes, Mr. Chairman. I wanted to point that out. We have asked a lot from Ms.  
23 Maney and she and I have had this discussion multiple times. I don't see her load lightening up  
24 in the next six months, so we've talked about that. She has taken on the task of doing some of  
25 the other items that you all are not aware of and I appreciate her for doing that and working  
26 cooperatively with us. Again, I have to say I see no relief within six months. We've talked about  
27 that, haven't we? She has done a great job. It's been a pleasure to work with her.

28 **Bradley Lambert:** Well, it's good to see the account going down. That's what this Board is  
29 excited to hear about.

30 **Bill Harris:** That's probably the opposite of what you usually hear, but it's a good thing for us.

1 **Donnie Rife:** We do appreciate you, though. Thank you.

2 **Mary Quillen:** Thank you.

3 **Bradley Lambert:** Thank you.

4 **Mary Quillen:** We really appreciate it. Like I said, those of us who have been on this Board for  
5 an extended period of time have seen multiple entities that we have worked with and we have  
6 never, not even come close, to having the kind of service and information and understanding of  
7 what's going on like we have had since we've worked with First Bank and Trust. We sincerely,  
8 sincerely appreciate it.

9 **Jody Maney:** We appreciate that.

10 **Mary Quillen:** Your hard work and you've helped us, tremendously, and made us feel more  
11 comfortable with what we are doing.

12 **C.J. Carter:** Most of that credit goes to Jody.

13 **Bradley Lambert:** Thank you all. Thank you, very much. Have a good day.

14 **Item Number 3**

15 **Bradley Lambert:** We're calling Docket Item Number 3. A petition from EQT Production  
16 Company, for disbursement of funds on behalf of all known owners in Tracts 1, 2, 3, 4 and 5.  
17 This is Docket Number VGOB-04-1214-1372-02. All parties wishing to testify please come  
18 forward.

19 **Jim Kaiser:** Mr. Chairman, Board members, Jim Kaiser and Deborah Lombardo, on behalf of  
20 EQT Production.

21 **Bradley Lambert:** Good morning.

22 **Sarah Gilmer:** Ms. Lombardo, do you swear and affirm that your testimony is the truth, the  
23 whole truth and nothing but the truth?

24 **Deborah Lombardo:** Yes, I do.

25 **Bradley Lambert:** You may proceed, Mr. Kaiser.

26 **Jim Kaiser:** Ms. Lombardo, if you'd state your name, who you're employed by and in what  
27 capacity?

28 **Deborah Lombardo:** My name is Deborah Lombardo. I'm employed by EQT Corporation. I'm  
29 a Division Order Analyst.

1 **Jim Kaiser:** And, we filed a disbursement request for this unit. Is that correct?

2 **Deborah Lombardo:** Yes, sir.

3 **Jim Kaiser:** Have all parties been notified, as required by statute?

4 **Deborah Lombardo:** Yes, they have.

5 **Jim Kaiser:** What unit are we dealing with, here?

6 **Deborah Lombardo:** Well Number 535601, the last four digits of Docket 1372.

7 **Jim Kaiser:** Which tracts are we disbursing from?

8 **Deborah Lombardo:** Tracts 1, 2, 3, 4 and 5.

9 **Jim Kaiser:** Will this be a partial or full disbursement?

10 **Deborah Lombardo:** Partial.

11 **Jim Kaiser:** The reason for the disbursement?

12 **Deborah Lombardo:** I believe we've located some of the owners and, also, because of House  
13 Bill 2058.

14 **Jim Kaiser:** I think, originally, there was a split agreement on it, too. Right?

15 **Deborah Lombardo:** Yes. The previous disbursement did have a split agreement.

16 **Jim Kaiser:** Have the figures been reconciled between EQT and the Escrow Agent?

17 **Deborah Lombardo:** Yes, they have.

18 **Jim Kaiser:** That's as of what date?

19 **Deborah Lombardo:** June 2016.

20 **Jim Kaiser:** And, this was one that the Board could not approve, administratively, because there  
21 is money left, so to speak. There's, basically, an overage in the escrow account. Is that correct?

22 **Deborah Lombardo:** That's correct.

23 **Jim Kaiser:** Can you, at this point, kind of explain what happened here?

24 **Deborah Lombardo:** There were three tracts that were not part of the escrow and EQT had to  
25 make a catch-up disbursement on those tracts because of the first disbursement, the year-one  
26 disbursement. They were excluded for a period of time, so we made a deposit to put those three  
27 tracts back in. That deposit, once everything came out and washed out, it looks as though there's

1 an extra \$1,700, or some money, there that's left over. We're attributing that, we believe, to the  
2 interest. So, that's why we're here because it's over the allowable \$500.

3 **Jim Kaiser:** Right. So, the escrow account has an extra \$1,744.83 in it?

4 **Deborah Lombardo:** That's correct.

5 **Jim Kaiser:** I believe this well was drilled in 2004.

6 **Deborah Lombardo:** If that's what you have on there, yes, I believe that's correct.

7 **Jim Kaiser:** So, your department is attributing this \$1,744 to, basically, 12-years' worth of  
8 interest.

9 **Deborah Lombardo:** Yes, sir.

10 **Jim Kaiser:** Okay. With our petition, did we file a Table 1?

11 **Deborah Lombardo:** We did.

12 **Jim Kaiser:** Would you ask the Board to use the next to the last column to the right, on Table 1,  
13 as to what percentage of escrowed funds should be disbursed?

14 **Deborah Lombardo:** Yes.

15 **Jim Kaiser:** Does Table 1 represent the interest owners and the amounts and percentage of the  
16 disbursement they should receive?

17 **Deborah Lombardo:** Yes, sir.

18 **Jim Kaiser:** Have we provided the Board with Exhibits E and EE, to reflect the status of this  
19 unit, after this disbursement?

20 **Deborah Lombardo:** Yes, we have.

21 **Jim Kaiser:** Would we ask that the Board direct, in their order, that all royalty due and owing to  
22 these interest owners be paid directly, going forward?

23 **Deborah Lombardo:** Yes, we do.

24 **Jim Kaiser:** Nothing further of this witness, at this time, Mr. Chairman.

25 **Bradley Lambert:** Any questions from the Board?

26 **Mary Quillen:** Just one clarification. These are all a result of the House Bill. Correct?

27 **Deborah Lombardo:** Yes, ma'am.

1 **Mary Quillen:** Okay, so they are all 100%.  
2 **Deborah Lombardo:** Yes.  
3 **Mary Quillen:** Thank you.  
4 **Bradley Lambert:** Any other questions? [No response] Anything further, Mr. Kaiser?  
5 **Jim Kaiser:** Mr. Chairman, we would ask that the application be approved, as submitted.  
6 **Bradley Lambert:** Do I have a motion?  
7 **Donnie Rife:** Motion made for approval, Mr. Chair.  
8 **Bill Harris:** I'll second.  
9 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
10 favor signify by saying yes.  
11 **Board:** Yes.  
12 **Bradley Lambert:** Thank you, Mr. Kaiser. That is approved.

13 **Item Number 4**

14 **Bradley Lambert:** We're calling Docket Item Number 4. A petition from EQT Production  
15 Company, for disbursement, petition for release of escrowed funds on behalf of all known oil  
16 and gas owners on Tract 2. This is Docket Number VGOB-97-1021-0612-02. All parties  
17 wishing to testify please come forward.

18 **Jim Kaiser:** Mr. Chairman, Board Members, again, Jim Kaiser and Deborah Lombardo, for  
19 EQT.

20 **Bradley Lambert:** You may proceed, Mr. Kaiser.

21 **Jim Kaiser:** Ms. Lombardo, again, this is a disbursement request, filed by EQT, on behalf of the  
22 interest owners in Tract 2, here, I believe.

23 **Deborah Lombardo:** Yes.

24 **Jim Kaiser:** Have all interested parties been notified, as required by statute?

25 **Deborah Lombardo:** Yes, they have.

26 **Jim Kaiser:** This is actually a dual-well, so this is for the drilling unit, designated as VAD-  
27 773738.

1 **Deborah Lombardo:** Yes.

2 **Jim Kaiser:** And, we're disbursing from Tract 2?

3 **Deborah Lombardo:** Yes, sir.

4 **Jim Kaiser:** And, this is a partial disbursement?

5 **Deborah Lombardo:** Yes, it is.

6 **Jim Kaiser:** Again, the reason for the disbursement?

7 **Deborah Lombardo:** House Bill 2058.

8 **Jim Kaiser:** Have the figures been reconciled between EQT and the Escrow Agent?

9 **Deborah Lombardo:** Yes, they have.

10 **Jim Kaiser:** That's as of what date?

11 **Deborah Lombardo:** May 2016.

12 **Jim Kaiser:** This is another case, where the department didn't feel like they could approve it,  
13 administratively, because again, there is an additional \$574, \$573.99, in the escrow account.  
14 Correct?

15 **Deborah Lombardo:** Correct.

16 **Jim Kaiser:** Again, EQT is attributing this additional money to interest that's accrued, over a  
17 time period?

18 **Deborah Lombardo:** Yes.

19 **Jim Kaiser:** We filed a Table 1, with our petition. Is that correct?

20 **Deborah Lombardo:** Yes, we did.

21 **Jim Kaiser:** As far as the Board disbursing any money, would you again direct them to the next  
22 to last column on the right, as to the percentage of escrowed funds they should use to disburse?

23 **Deborah Lombardo:** Yes.

24 **Jim Kaiser:** Does Table 1 include all interest owners that should receive disbursements, their  
25 percentages and their amounts?

26 **Deborah Lombardo:** Yes, it does.



1 **Jim Kaiser:** Did we provide the Board with an Exhibit E and EE, to reflect the status of this  
2 unit, after this disbursement?

3 **Deborah Lombardo:** Yes, we have.

4 **Jim Kaiser:** Would you ask that any order from the Board direct that all royalties be paid to  
5 these folks directly, going forward?

6 **Deborah Lombardo:** Yes.

7 **Jim Kaiser:** Nothing further of this witness, at this time, Mr. Chairman.

8 **Bradley Lambert:** Any questions from the Board?

9 **Bruce Prather:** Mr. Chairman.

10 **Bradley Lambert:** Mr. Prather.

11 **Bruce Prather:** Jim, is this well in Wise County?

12 **Jim Kaiser:** Yes, it is.

13 **Bruce Prather:** I think we've got an interest in it, so I'm going to have to recuse myself.

14 **Bradley Lambert:** Any other questions from the Board? [No response] Anything further, Mr.  
15 Kaiser?

16 **Jim Kaiser:** No. We'd ask that the application be approved, as submitted, Mr. Chairman.

17 **Bradley Lambert:** Do I have a motion?

18 **Donnie Rife:** Motion made, Mr. Chairman, for approval.

19 **Bill Harris:** Second.

20 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
21 response] All in favor signify by saying yes.

22 **Board:** Yes.

23 **Bradley Lambert:** Opposed, no.

24 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

25 **Bradley Lambert:** Two abstentions. Mr. Prather and Mr. Ratliff.

**Item Number 5**

**Bradley Lambert:** We're calling Docket Item Number 5. On the Board's own motion, EQT will provide testimony, as to how the funds need to be corrected for units V-535433, Docket Number 06-0117-1564, and V-536200. An escrow account needs to be set up for docket 1516 and funds that were incorrectly deposited into 1564 will need to be transferred into 1516. We don't have a petition. We don't have any information. I think they're going to provide that for us. This is going to be an interesting one, I expect.

**Deborah Lombardo:** It's not that bad. It won't take us very long.

**Jim Kaiser:** It's not as complicated as it seems.

**Sarah Gilmer:** Mr. Horne, do you swear and affirm that your testimony is the truth, the whole truth and nothing but the truth?

**Phil Horne:** Yes.

**Bradley Lambert:** You may proceed, Mr. Kaiser.

**Deborah Lombardo:** This was all discovered because of the escrow uploads. We were making deposits that nobody knew what to do with, so that's where it all came to light. It turns out that the deposits that we've been making were being deposited to another well that used to be EQT's, prior to the sale to Range. If you look at the outline I gave you, the original order stated that there was no escrowing required, but Tracts 2 and 3 were listed as failing to enter into an agreement, so those tracts should have been escrowed, so we are in the process of revising the supplemental and we would like approval to revise that supplemental, so that we can get these two tracts back where they need to be because the deposits have been coming from EQT, but they haven't been put anywhere, except they've been put into Docket Number 1564, Well number 535433. We deposited a total of \$5,875.93, for Tract 2. The first payment that we made back when this well was pooled, back, I believe, in 2011. We made a payment of \$5,118.11 to First Bank, the Escrow Agent. That amount, actually, is reflected on Docket 1564, for the July 2011 Escrow Agent Summary. We made additional payments through July 2016, when this was discovered. Then, we stopped because we wanted to get it fixed. Total payments for the well, where it's being deposited, were \$5,491.83. Those payment dates go from June 2006 through August 2014. At that time, that well was sold to Range Resources and that's why EQT didn't make further payments on that well. Just as a reason for me to show you that the payments were exactly where they were going, the last payment EQT made to the Escrow Agent for Well 525433, was \$26.95. The payment we made to the Escrow Agent for Well 536200 was \$25.42. If you add those two payments up, they come up to \$52.37. That, actually, is the deposit showing on the escrow statement for August 2014. The balance back in August 2014 was \$11,168.56. The balance in escrow, as of that time, that was the balance in escrow, at that time, \$11,168. I provided the Escrow Agent, along with EnerVest, some of the information, the same

1 information that you're seeing, along with a bunch of spreadsheets, showing all the deposits, all  
2 the comparisons, so they could understand what happened, as well, so they are not in the blind,  
3 with what's happening, here. Right now, June's balance for the Escrow Agent is \$11,757.35.  
4 That almost matches what it should have been because of the deposits that EQT has made, on  
5 behalf of that well.

6 **Mary Quillen:** And, you have been working with the Escrow Agent. Correct?

7 **Deborah Lombardo:** Yes, ma'am.

8 **Mary Quillen:** Okay. So, they're all on the same page with you all?

9 **Deborah Lombardo:** Yes.

10 **Mary Quillen:** Okay.

11 **Jim Kaiser:** Do we have a suggestion for how we're going to take care of this?

12 **Deborah Lombardo:** We would suggest that the amount be taken from the Docket of 1564 and  
13 the deposit made into the escrow account established for Docket 1516, so that we can then  
14 request a disbursement on behalf of one of those tracts. The other tract would remain in escrow.

15 **Mary Quillen:** So, the 1516 will be the active account.

16 **Deborah Lombardo:** Yes, ma'am.

17 **Mary Quillen:** Okay.

18 **Deborah Lombardo:** The other account will remain active. The other account will stay active  
19 because that is still an escrowed account on EnerVest.

20 **Mary Quillen:** Are these people in that original one, as well?

21 **Deborah Lombardo:** No. They are not.

22 **Mary Quillen:** Okay. So, it's just that group of people that has been taken out of that.

23 **Deborah Lombardo:** There are two people on those two tracts.

24 **Mary Quillen:** It looks like Wise County School Board and Buster Brown Apparel.

25 **Deborah Lombardo:** Yes. Buster Brown Apparel, I have been trying to locate for quite some  
26 time. We're not sure what happened to them. We would love to get rid of it and be done with  
27 this. We were hoping to have found them, prior to this hearing, so that we wouldn't have to keep  
28 escrowing.

1 **Mary Quillen:** The School Board bought property that belonged to Buster Brown, which was  
2 adjacent to the Middle School, in Coeburn. I taught there, is the reason I know.

3 **Deborah Lombardo:** We might end up finding out that's where it should go.

4 **Mary Quillen:** I know that they bought that property, as an extension of the campus for  
5 Coeburn Middle School.

6 **Deborah Lombardo:** Okay.

7 **Mary Quillen:** So, you might.... Greg Perry was the financial officer, at the time that this was  
8 done, but Greg has retired, but he's still in the area. So, that might be a way of, maybe, bringing  
9 some information together. He lives in Wise. That might be a source of information.

10 **Jim Kaiser:** He worked for Buster Brown?

11 **Mary Quillen:** No. He was the financial officer for Wise County, at the time, when this took  
12 place. He has retired, maybe, a couple of years, maybe not that long. He would have knowledge  
13 of that because they did have some kind of a dealing with this property. It is adjacent to the  
14 Coeburn Middle School. That might be a contact.

15 **Deborah Lombardo:** That would be great. We might not have to continue the escrow account,  
16 then, if that's the case.

17 **Mary Quillen:** See whether they know anything about... Buster Brown went out of business, of  
18 course. The property sat vacant for quite a while.

19 **Deborah Lombardo:** Thank you.

20 **Mary Quillen:** That might be a lead.

21 **Deborah Lombardo:** Better than where I've been. We would ask that the Board approve that  
22 we make a withdrawal from Docket 1564 and establish an escrow account for 1516, so that we  
23 can, at least, pay the one tract and, hopefully, pay the other. I also need approval to revise the  
24 supplemental, the original supplemental, so that I can then request a new docket disbursement for  
25 that tract.

26 **Bradley Lambert:** Ms. Lombardo, let me ask a question. You made the statement that EQT  
27 quit making payments in August 2014, into the account. What's happened since, from 2014 until  
28 now?

29 **Deborah Lombardo:** EnerVest has been making those payments. They should have been.

30 **Bradley Lambert:** Excuse me?

1 **Deborah Lombardo:** Well, it would be Range Resources. That particular well was sold to  
2 Range Resources, back in 2014, the well where the money was being deposited.

3 **Bradley Lambert:** Do we have records that payments are going into that?

4 **Deborah Lombardo:** I believe we do.

5 **Rick Cooper:** Yes, we do.

6 **Deborah Lombardo:** I provided the spreadsheets to the Escrow Agent.

7 **Rick Cooper:** I think that's the reason Mr. Horne is here, to say that it's okay to transfer the  
8 funds out of the EnerVest account.

9 **Bradley Lambert:** I understand that, but do we have documentation where either EQT or  
10 EnerVest has made this deposit, since August 2014?

11 **Rick Cooper:** We do.

12 **Bradley Lambert:** Okay.

13 **Rick Cooper:** So, to summarize this, we've had a couple of meetings to help everyone out.  
14 What we really need is a revised supplement for 1516, is all we really need to do and your all's  
15 permission for me to allow Ms. Maney to transfer the funds from one well to the other. Then,  
16 she would have to petition the Board to make a disbursement, at a later date. These are  
17 conventional wells, just to let you know. They're not coal wells.

18 **Mary Quillen:** And, Mr. Horne is going to testify to transfer these.

19 **Phil Horne:** They can take money out 5433 and put in the 6200.

20 **Rick Cooper:** The balance did count out.

21 **Bradley Lambert:** I'm trying to decide exactly what this Board needs to approve.

22 **Rick Cooper:** Historically, the Board has wanted me to bring items. A lot of times we find  
23 deficiencies throughout deposits, whether it be \$10 or \$20 or \$50, but with this large amount of  
24 money, \$5,000, I just want the Board's permission that it's okay to do that. We just want it on  
25 record that we're moving over \$5,000 out of one account and placing it into the other and why  
26 we are doing that.

27 **Bradley Lambert:** That's all. As far as a supplemental order, you would take care of that.

28 **Rick Cooper:** The supplemental order, they would have to revise the supplemental to add  
29 Buster Brown or Wise County Schools. They pooled this item back in March '06. They pooled

1 this particular well. They just need to revise their supplemental, showing that Wise County and  
2 Buster Brown are the escrowed people that are due funds.

3 **Mary Quillen:** It seems like the first part of this is just a lateral transaction that the company  
4 has worked with your office and all of this has been approved. The Board would not be asked to  
5 approve, on a motion, until she does the supplemental order, or the disbursement. Is that right?

6 **Rick Cooper:** I guess the only thing that we're.... I guess, as a general rule, when we move this  
7 kind of money, the Board always wanted to have the approval for a large amount. All they're  
8 asking the Board is to allow over \$5,000 to be moved from Account 1 to Account 2. The rest of  
9 the paperwork and processes will come forward at a later date.

10 **Mary Quillen:** Right.

11 **Rick Cooper:** So, to give you a little more history, we discovered this, since Ms. Lombardo's  
12 here. We've had some difficulty with the escrow uploads, a lot of things. Ms. Maney's back here  
13 for this very purpose. That's how this was discovered. We couldn't approve one of the escrow  
14 uploads that's been sitting out there for a period of time, because this discrepancy was found. So,  
15 we cannot do our escrow upload until we actually get this corrected. We still have, probably,  
16 eight of those still hanging out there, that we've been working on, in front of the Board. We had  
17 28, originally, but we're down to 8. This happens to tie up a couple that we cannot approve until  
18 we transfer the funds around.

19 **Bradley Lambert:** So, this is part of the ones that this Board's been dealing with for over a  
20 year, to get uploaded?

21 **Rick Cooper:** This is part of those. That is correct.

22 **Bradley Lambert:** Okay. So, if the Board approves this transaction, then how soon will the  
23 others be completed? Because, you know, that's been a concern of the Board for over a year,  
24 now. We've been, kind of, holding off taking any action.

25 **Rick Cooper:** I guess Ms. Lombardo would answer how long it would take for us to get those  
26 eight, that are rejected.

27 **Deborah Lombardo:** They're, actually, being uploaded this week. I talked with Kristy, this  
28 morning. She's been working on them. I talked with her, this morning, and she said they will be  
29 uploaded this week, the rest of them. Once we get the approval, that will fix the majority of  
30 what's left. That's, kind of, what's holding everything up now because the ones that are left,  
31 typically, involve this one. There was a few other issues I know that she worked with Jody on. I  
32 think they've gotten those fixed, as well, if I'm not mistaken.

1 **Rick Cooper:** Ms. Ketron had been working with Jody on that, so I guess I would like to think  
2 and I would like you to commit that we would have these before the next board hearing, approve  
3 those eight, that are outstanding.

4 **Deborah Lombardo:** Yes, absolutely.

5 **Bradley Lambert:** Okay. That's great news because we've been struggling with EQT, in  
6 getting uploads for a long time, now. We need to close these out, quickly, so if we can approve  
7 this one, we would certainly expect by the next hearing, those will be before the Board.

8 **Deborah Lombardo:** Yes, sir.

9 **Mary Quillen:** So, you need a motion for approval of transferring the funds from the one  
10 account to the other account.

11 **Deborah Lombardo:** Yes, ma'am.

12 **Bradley Lambert:** Yes. That's what we need. Do I have a motion?

13 **Mary Quillen:** I will make that motion.

14 **Donnie Rife:** Second, Mr. Chairman.

15 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
16 favor signify by saying yes.

17 **Board:** Yes.

18 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Kaiser. That is approved.

19 **Bruce Prather:** I need to be recused from that vote.

20 **Bradley Lambert:** One abstention. Mr. Prather.

21 **Item Number 6**

22 **Bradley Lambert:** We're calling Docket Item Number 6. This is a petition from EnerVest  
23 Operating, LLC, for (1) Modification of the Nora Coalbed Methane Gas Field Rules, to allow  
24 one additional coalbed gas well to be drilled within each of the 58.77 acre Nora units identified  
25 hereto. (2) For an administrative order providing that additional well permits may be issued in  
26 the Nora Field after this application is filed and while it is pending. Docket Number VGOB-89-  
27 0126-0009-89. All parties wishing to testify please come forward.

28 **Tim Scott:** Tim Scott, Gus Janson and Aaron Anderson for EnerVest Operating, LLC.

29 **Bradley Lambert:** Sarah, Sally...

1 **Sarah Gilmer:** Do you swear and affirm that your testimony is the truth, the whole truth and  
2 nothing but the truth?

3 **Gus Janson:** Yes.

4 **Aaron Anderson:** Yes, I do.

5 **Bradley Lambert:** Mr. Scott, before you begin, I just have one question. It may be something  
6 we want to clear up, in the relief sought. That is your second statement. It says, "For an  
7 administrative order providing that additional well permits may be issued in the Nora Field after  
8 this application is filed and while it is pending."

9 **Tim Scott:** Yes, sir.

10 **Bradley Lambert:** That gives a little bit of concern because, while it's still pending, I'm not sure  
11 we can give approval for the wells to be drilled if this is pending. Maybe that wording needs to  
12 be changed. Maybe the "pending" needs to be taken out. I'm not sure. Did any other Board  
13 members catch that, or pick up on that?

14 **Mary Quillen:** Yes.

15 **Bradley Lambert:** I understand. I've had a discussion with Mr. Cooper that said I've seen this  
16 before.

17 **Tim Scott:** Statute of limitations have run. We're good with this.

18 **Bradley Lambert:** Okay.

19 **Tim Scott:** I'll talk to Mr. Cooper and we can figure out the best way to do that, Mr. Chairman.

20 **Bradley Lambert:** Okay. You may proceed.

21 **Tim Scott:** Thank you.

22 **Mary Quillen:** Just to clarify that number 2 will be excluded from the motion for Item Number  
23 6.

24 **Bradley Lambert:** I didn't recommend that it be removed. I was thinking that the wording  
25 needs to be changed to reflect, other than something that this application is pending application.

26 **Paul Kugelman:** I think, maybe, if it just says, "after it's approved." Isn't this application before  
27 the Board, right now?

28 **Bradley Lambert:** Yes, to be approved. Yes.

29 **Paul Kugelman:** Is that okay with you?



1 **Tim Scott:** That's what I had intended to do.

2 **Paul Kugelman:** Yes, sir. Okay. I'm sorry for getting ahead of you.

3 **Tim Scott:** You're not.

4 **Bradley Lambert:** You may proceed, Mr. Scott.

5 **Tim Scott:** Mr. Anderson, please state your name, by whom you are employed and your job  
6 description.

7 **Aaron Anderson:** Aaron Anderson. I work for EnerVest, LLC, Associate Land Man.

8 **Tim Scott:** And, you're familiar with this application. Is that correct?

9 **Aaron Anderson:** That's correct.

10 **Tim Scott:** And, you participated in the preparation of this application, also. Correct?

11 **Aaron Anderson:** That's correct.

12 **Tim Scott:** And, we have an Exhibit B attached to the application, which reflects the parties  
13 who were to receive notice of this hearing. Is that right?

14 **Aaron Anderson:** That is correct.

15 **Tim Scott:** And, all those parties have received notice. Is that right?

16 **Aaron Anderson:** Yes, sir.

17 **Tim Scott:** And, we filed our proof of mailing with the Board. Is that correct?

18 **Aaron Anderson:** That's correct.

19 **Tim Scott:** That's all I have for Mr. Anderson.

20 **Bradley Lambert:** Any questions from the Board? [No response] You may continue, Mr.  
21 Scott.

22 **Tim Scott:** Thank you, Mr. Chairman. Mr. Janson, your name, by whom you are employed and  
23 your job description, please.

24 **Gus Janson:** My name is Gus Janson. I'm employed by EnerVest Operating, LLC, as a  
25 Geology Advisor.

26 **Tim Scott:** And, you also participated in the preparation of this application. Is that right?

27 **Gus Janson:** That is correct.

1 **Tim Scott:** So, we've attached exhibits to our application. Is that right?

2 **Gus Janson:** That's correct.

3 **Tim Scott:** And, those are now present, before the Board. Is that correct.

4 **Gus Janson:** Yes.

5 **Tim Scott:** So, would you please explain to the Board why we're seeking increased density  
6 drilling for these particular units, which are the subject of this application?

7 **Gus Janson:** Yes. As Mr. Scott stated, you have the Exhibit K, that's been submitted as part of  
8 this application. Just as a prelude to that, I'll give you a quick update on our drilling activity,  
9 from EnerVest's part, for 2016, and looking forward, into 2017. This year, we've drilled 46 wells  
10 and completed those wells, at this point, 32 which are increased density wells. 70% of our  
11 program, this year, was related to increased density activity. Moving forward, out of 2017, that  
12 will be some of these units we're talking about, today. We're planning to drill 100 wells in this  
13 coming year. I would expect something similar to that. 70-80% of that will be increased density  
14 wells.

15 **Bradley Lambert:** Let me ask you a question right there, Mr. Janson, along those lines.  
16 Particularly for the Nora Field, you anticipate you will be back before this Board more times,  
17 asking for increased density wells.

18 **Gus Janson:** That is correct.

19 **Bradley Lambert:** And, we're going to hear the same testimony every time. Thinking a year or  
20 two out, that you're going to be coming back before this Board, is there any way you might  
21 consider consolidating these a little more, rather than asking for four or five, at a time?

22 **Gus Janson:** Yes, sir. I think what EnerVest would like to propose, at some point in time, with  
23 the Board's input, is that we, maybe, go ahead and try to modify the field rules for the Nora Field  
24 and set that, going forward, that would allow for the second well. We may need to have some  
25 provisions on that, so that the Director has some ability to bring any that he may have concerns  
26 with, back to the Board, as part of the permitting process for final approval if he needed to do  
27 something, there. I think that's something that I'd like to work for, that EnerVest would like to  
28 work towards, is getting those field rules modified, to eliminate these multiple hearings.

29 **Bradley Lambert:** I would suggest, just so that we can make this a little easier for all of us, if  
30 you could work with Mr. Cooper and, working with him, come up with some language to do  
31 that, would make it...

32 **Gus Janson:** I think we can do that.

33 **Bradley Lambert:** Okay.

1 **Gus Janson:** That would be great.

2 **Bradley Lambert:** Thank you. Sorry for the interruption.

3 **Rick Cooper:** Mr. Chairman, it's good you pointed that out. As you can see, this is the 89th  
4 modification of the Nora Field, already.

5 **Donnie Rife:** We were worried about the 150.

6 **Rick Cooper:** So, you're saying that, so we have, internally, worked with our IT department, so  
7 none of our accounts could handle 3-digit numbers. So, just because of the Nora Field  
8 modification, we have went in and re-wrote the program in our database so that they can accept  
9 3-digit numbers because of the Nora Field. So, if it goes to 100, we are prepared to handle it,  
10 now.

11 **Donnie Rife:** So, you are kind of wishing we would have done this probably years ago.

12 **Rick Cooper:** It's a bit complicated.

13 **Bradley Lambert:** Okay. Again, we'll move back to Exhibit K.

14 **Gus Janson:** Again, this will be very similar to the presentation you've seen in the past, from  
15 EnerVest and prior companies. The first page is just a view of the Nora Field, giving you the  
16 location of the units that have been approved, so far to date. You can see there's, obviously,  
17 several units have been approved for increased density drilling. The ones highlighted in green  
18 are ones that we're considering, today, as part of this application. Moving on to Page 2, it's again  
19 the same view. I've added to this the red dots, indicating where increased density drilling has  
20 taken place, to-date. You can see this program is continuing to evolve, throughout the field. It  
21 also, on the edge of the map, to the east, you also see part of the Oakwood Field. That's the  
22 boundary between EnerVest and CNX's activity, so you can, again, see the increased density  
23 drilling in those areas, also. Page 3, again, is a close-up view of the increased density units.  
24 Again, what's been added to this one, the wells are the spots, in black, indicating all the drilled  
25 wells that have occurred, to-date, in the field. Along with the red, indicating the increased  
26 density wells, we have also added in there, the green and the purple colors, which are  
27 representative of our permitted activity at our near-term drilling, over the next year, in 2017. So,  
28 some of those will have permits that have been issued, at this point, and some of the ones that are  
29 pending, today, that will be part of these applications, today, and some of the ones we're looking  
30 at, in the future.

31 **Bill Harris:** Mr. Chairman.

32 **Bradley Lambert:** Mr. Harris.

33 **Bill Harris:** The ones in between, I notice that a lot of them have not been drilled. Do you all  
34 not have ownership of those or is this...?

1 **Gus Janson:** The main reason for those areas that have not been drilled, to-date, and have been  
2 approved prior, is related to coal mining activity.

3 **Bill Harris:** Okay.

4 **Gus Janson:** So, a lot of that was approved prior to, primarily, Deep Mine 41, which is the  
5 major activity occurring out there, today. So, we have not pursued those, going forward. Those  
6 were, historically, approved at one time, but the wells didn't get drilled, at that time. So, we've  
7 sort of put those on hold, working with the coal company to establish where the best places to  
8 drill those units are, going forward. That will be the main part of that. There's also some surface  
9 mining activity that's picked up, in the last two or three years, since some of those units.

10 **Bill Harris:** Thank you.

11 **Gus Janson:** Moving on to Page 5, again, you'll see the production plot, the cumulative  
12 production of all the wells, the in-field drilling, the blue line being the original well drilled and  
13 the increased density unit in the purple line being the in-field, or the increased density well.  
14 What I'm trying to represent with this is that we are achieving additional reserves whenever we  
15 drill these extra wells. It's not like... we are getting some acceleration in the reserves, we hope.  
16 We also are getting new reserves. That's one of the big benefits of this. Also, we're increasing  
17 the fracture network that will produce that gas. We're decreasing the de-water time that we need  
18 to actually get the gas off the wells. We're increasing the recovery factor at the same time.  
19 Again, this is all achieving this faster and, hopefully, more economically. We're not really  
20 seeing any negative impacts on the first wells that have been drilled out there. In fact, in most  
21 cases, we see a positive impact on those. I think that's illustrated by the slight decline that you  
22 see in the field. It's really abnormal to see that many wells, even in areas where there aren't in-  
23 fields. Again, at the end, in the last time-frame, December 15, that will be the new activity that's  
24 taken place, in the last year, end of '15. This can be updated for '16, at some point, as we get  
25 more production data. On Page 5, I added another little example of what's going on with  
26 increased density, to give you some more insight to that, comparing two wells that were actually  
27 drilled 27 years apart, in time. One of them's the more recent well, which would be the 531599  
28 and, then, the early well would be the 703558. You can see the original production, in blue, the  
29 first well, drilled 27 years ago. There's other wells in the area, too. So, there has been some  
30 impact to the reservoir from the other drilling, but as we drill the new well, in 2015, you can see  
31 that it went on production really quickly, had a higher rate than the original well. Of the two  
32 plots, one is a times zero plot, which is going back to the time of the well, when it first went into  
33 production. So, you can see the difference in production. I've also shown you a current view of  
34 that production, when the new increased density well came in. You can see that it's having no  
35 significant impact to the first well, that it's continued its production profile, going ahead. Again,  
36 we increased the availability of gas that we're getting from the reservoir. So, again, there has  
37 been some other things going on. We have had some technology advances, over time, so maybe  
38 we are completing the wells a little bit different and, maybe, more effectively, today. That's

1 going to be part of that impact, but I think the majority of it is that, originally, when the field was  
2 laid out on the 60-acre grid, that it was recognized at that point early in time that we didn't have  
3 enough data to know how much reservoir was really going to contribute to each of those units.  
4 After 27 years of activity in the field, we see that we could have, probably, done a 30-acre grid  
5 and been just as well off.

6 **Bill Harris:** Let me ask just a quick question, also. On Page 5, in the upper left, you show the  
7 76AR and those are the two wells that are contributing to your graph. I notice that there was  
8 another well that was a 50-something, to the lower right, there.

9 **Gus Janson:** Correct.

10 **Bill Harris:** Have you all looked at that to see what impact?

11 **Gus Janson:** Yes, I've looked at many of these wells, throughout the field. That's what I'm  
12 saying. Some of these other wells, as you continue to develop the CBM wells, you'll get more  
13 communication between the wells and you'll more effectively de-water that reservoir.

14 **Bill Harris:** Okay. So, you were referring to something. I noticed, we do it per unit, but I just  
15 wondered, since that was so close.

16 **Gus Janson:** Right. We look at it on a global basis, too. There's a lot of areas. Areas are a  
17 little bit different in some parts of the field. Some will react differently, but for the most part, we  
18 see the same results.

19 **Bruce Prather:** The percentage of this increase is due to increased proficiency in your  
20 treatments?

21 **Gus Janson:** That's a great question. I wish I could answer that one, today. Over the past 27  
22 years, we've completed these wells very differently than the first wells that were done in the  
23 1980's to where we are, today. I haven't been able to quantify that. It's going to be different in  
24 some areas. In this case, it's a really dramatic impact between two wells.

25 **Bruce Prather:** You repeatedly see this dramatic impact you're talking about and I'm not really  
26 sure we're comparing the same things.

27 **Gus Janson:** That's a fair question, that in some cases, you don't always get this dramatic of an  
28 increase. You may get a very similar well, the first well, in some cases. Again, you're not  
29 impacting that first well, so you still are recovering your reserves.

30 **Bruce Prather:** Exactly.

31 **Gus Janson:** So, it's going to be somewhat statistical throughout the field.

32 **Bruce Prather:** Yes.

1 **Mary Quillen:** Are there other wells that have this amount of time difference between the first  
2 and second well? Because that's a very old field.

3 **Gus Janson:** Right. The early wells were drilled in the '80's. I'd have to go back, but my  
4 recollection is that first year that the program went into effect.... I think it even went into effect  
5 before we even established the units, at the time. There were only a handful of wells drilled that  
6 year, maybe 5 or 10, the first year that it went. It's increased up to 50 or 60 a year. Now, I think  
7 we've peaked somewhere around 2009 or 2010, at a couple hundred wells being drilled, in the  
8 field. At this point in time, after 27 years, there have been approximately a little over 2,000  
9 wells, drilled in the field.

10 **Mary Quillen:** And, you're seeing some of this similar, but you are seeing the increased  
11 production is economically...?

12 **Gus Janson:** Right. I would term this as a positive impact. The wells are economic. We'll get  
13 into that in the next slide. The was a great segue into the next.

14 **Mary Quillen:** Sorry. I didn't mean to get ahead of you.

15 **Gus Janson:** So, on Page 6, we talk about some of the benefits of the increased density. Again,  
16 we're benefitting the working interest owners, the royalty owners, by maximizing production.  
17 We're also promoting the conservation of the gas resource and preventing the waste, by more  
18 effectively producing the resource. Again, it allows for that shared facility, such as roads,  
19 pipelines, power lines, and minimizing that environmental impact. Again, in these depressed  
20 market conditions, these gas price conditions, that's very important for us to be able to  
21 economically develop these wells. That's why the focus has really been on these increased  
22 density wells, where we can minimize some of those costs, to be able to produce the wells,  
23 economically. We have no correlative rights issues with those units, today. Finally, the last  
24 three pages are the information that the Board had requested, in relation to the topographic  
25 conditions, as well as any mining activity that was going on around the wells. In these cases, in  
26 these units today, there are no active mines. There's a few, minor, shallow abandoned mines,  
27 that will be drilled through, but there's no impact to any current mining activity, at this point in  
28 time. I'd be glad to answer any other questions you have.

29 **Bradley Lambert:** Any further questions from the Board? [No response] Anything further, Mr.  
30 Scott?

31 **Tim Scott:** That's all I have, Mr. Chairman.

32 **Bradley Lambert:** Do I have a motion?

33 **Donnie Rife:** Motion made for approval, Mr. Chair.

34 **Bill Harris:** Second.

1 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
2 response] All in favor signify by saying yes.

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed, no.

5 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

6 **Bradley Lambert:** One abstention. Mr. Ratliff.

7 **Item Number 7**

8 **Bradley Lambert:** We're calling Docket Item Number 7. A petition from EnerVest Operating,  
9 LLC, to disburse funds from the escrow account for well VC-536594, to all known owners in  
10 Tracts 1, 2, 5, 6, 7, 11, 14, 15 and 19. Docket Number VGOB-08-0318-2181-01. Do we have  
11 another Docket Number, there, Rick, or...? It's showing two Docket Numbers at the bottom of  
12 that.

13 **Sarah Gilmer:** I'm sorry I didn't catch that. The system puts one in there and they typed it in  
14 there. I apologize. I didn't catch that.

15 **Bradley Lambert:** That's okay.

16 **Rick Cooper:** So, it's the same one.

17 **Bradley Lambert:** Same one. I thought there might have been something different going on.  
18 All parties wishing to testify please come forward.

19 **Tim Scott:** Phil Horne and Tim Scott for EnerVest Operating, LLC.

20 **Bradley Lambert:** You may proceed, Mr. Scott.

21 **Tim Scott:** Thank you, Mr. Chairman. Mr. Horne, please state your name, by whom you are  
22 employed and your job description.

23 **Phil Horne:** My name is Phil Horne. I'm a contractor for EnerVest Operating, LLC. I've been  
24 working on special projects. One of them is trying to wrap up this escrow account.

25 **Tim Scott:** With this particular unit, you've got several tracts from which the escrow is to be  
26 disbursed. Is that correct?

27 **Phil Horne:** That's correct.

28 **Tim Scott:** Will this result in the closing of this account?

1 **Phil Horne:** No, it will not.

2 **Tim Scott:** Is this a partial, then?

3 **Phil Horne:** That's correct.

4 **Tim Scott:** What's the effective date of the reconciliation?

5 **Phil Horne:** July 2015.

6 **Tim Scott:** Based on your records and those of the Escrow Agent, do they reconcile?

7 **Phil Horne:** Yes.

8 **Tim Scott:** So, the account will remain open. Is that right?

9 **Phil Horne:** That's correct.

10 **Tim Scott:** And, all parties who were supposed to receive notice of this hearing have been  
11 notified. Is that correct?

12 **Phil Horne:** That's correct.

13 **Tim Scott:** Would you please explain to the Board, with your exhibits, what we're going to be  
14 disbursing, today?

15 **Phil Horne:** We, initially, submitted this one to be approved without coming before the Board  
16 and we had determined that EQT, initially, and then, of course, Range, for a few months after  
17 they bought it, had been overpaid into the escrow account. Standard Banner owned the coal, oil  
18 and gas under Tracts 12, 13 and 17, in addition to the 9 oil and gas tracts that will be disbursed.  
19 So, we revised exhibits and added Standard Banner's three coal, oil and gas tracts to go ahead  
20 and disburse them along with the other nine tracts.

21 **Tim Scott:** So, once that's done, then those will be direct pay. Is that correct?

22 **Phil Horne:** Everybody will be set up on direct pay, going forward. That's correct.

23 **Tim Scott:** That's all I have on this one, Mr. Chairman.

24 **Bradley Lambert:** Any questions from the Board?

25 **Mary Quillen:** Is this a House Bill? I notice they're all 100%. Is this a House Bill?

26 **Phil Horne:** This is a House Bill. Yes, ma'am.

27 **Mary Quillen:** Okay.



1 **Bradley Lambert:** Mr. Horne, you testified that the account had been reconciled. It's been  
2 reconciled, but the reconciliation shows a difference of what we have, of \$190.77.

3 **Phil Horne:** Wells never is reconciled exactly to the exact penny. \$190.77 difference.

4 **Bradley Lambert:** Okay. Thank you. Anything further, Mr. Scott?

5 **Tim Scott:** That's it, Mr. Chairman.

6 **Bradley Lambert:** Do I have a motion?

7 **Donnie Rife:** Motion made for approval, Mr. Chair.

8 **Bill Harris:** Second.

9 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
10 response] All in favor signify by saying yes.

11 **Board:** Yes.

12 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Scott. That's approved.

13 **Item Number 8**

14 **Bradley Lambert:** We're calling Docket Item Number 8. A petition from EnerVest Operating,  
15 LLC, to disburse funds from the escrow account for well VC-536589, to all known owners in  
16 Tracts 2, 4, 7, 8. Docket Number VGOB-07-0515-1935-05. All parties wishing to testify please  
17 come forward.

18 **Tim Scott:** Phil Horne and Tim Scott for EnerVest Operating, LLC.

19 **Bradley Lambert:** You may proceed, Mr. Scott.

20 **Tim Scott:** Thank you, Mr. Chairman. Mr. Horne, again, your name, by whom you are  
21 employed and what's your job description?

22 **Phil Horne:** I'm Phil Horne. I'm employed by EnerVest Operating Company, as a Contract  
23 Land Man. I work on special projects, including this escrow account.

24 **Tim Scott:** With regard to this first one. Is it a full or partial disbursement?

25 **Phil Horne:** It's a partial. There's one unknown.

26 **Tim Scott:** Okay. So, what's the reconciliation date? What's the effective date of that  
27 reconciliation?

28 **Phil Horne:** August 2015.

1 **Tim Scott:** With regard to your figures and those of the Escrow Agent, do they match?

2 **Phil Horne:** \$76.25 difference.

3 **Tim Scott:** Okay. To the good?

4 **Phil Horne:** To the good.

5 **Tim Scott:** Okay. The escrow account will remain open. Is that correct?

6 **Phil Horne:** That's correct.

7 **Tim Scott:** With regard to these particular tracts, they'll be direct pay from this point on. Is that  
8 right?

9 **Phil Horne:** That's correct.

10 **Tim Scott:** The remaining tracts still remain in escrow.

11 **Phil Horne:** Just the one party.

12 **Tim Scott:** With the unknown. Is that correct?

13 **Phil Horne:** That's correct.

14 **Tim Scott:** Okay. All parties who were supposed to receive notice of this hearing have received  
15 notice. Is that right?

16 **Phil Horne:** That's correct.

17 **Tim Scott:** That's all I have for Mr. Horne.

18 **Phil Horne:** This is pretty much like the last one we did, except that it's a little bit more  
19 extreme. Once we did our last petition, the one prior to this, in '04, we determined that EQT, of  
20 course, Range for a few months, had also overpaid into the escrow account. They paid for tracts  
21 that were coal, oil and gas, one of EnerVest, Tract 4. Then, Tracts 2, 7 and 8 had splits done  
22 with them. If you look at Exhibit EE, there's a little explanation underneath each tract. So,  
23 basically, EnerVest did a disbursement here, the last disbursement, '04, there was way too much  
24 money in the escrow account, so the parties that got disbursed were overpaid by, approximately,  
25 four times what they should have received. So, what we've done, now, we're asking that we....  
26 There's about \$1,760 in the escrow account and what we would like to do is go ahead and  
27 disburse to Charlton Tiller. He had done a 75/25 split with Range Resources and he never was  
28 listed on Exhibit E. As you can see, Tracts 7 and 8 of his interest was never disbursed to him  
29 and he never was paid. What we're asking is that we'll leave the money in the escrow account  
30 for Lowell Barton, who is an unknown. We ask that you disburse the rest of it to Charlton Tiller

1 and, then, the balance to EnerVest. Then, EnerVest will try to recoup the money the paid to  
2 these oil and gas owners, through future payments.

3 **Tim Scott:** So, that would be withholding the royalties?

4 **Phil Horne:** Yes.

5 **Tim Scott:** Until it washes out.

6 **Phil Horne:** Yes, until EnerVest recovers its money.

7 **Paul Kugelman:** So, you're treating the overpayment as advanced payment?

8 **Phil Horne:** Yes.

9 **Tim Scott:** Yes.

10 **Phil Horne:** Instead of asking for money back, we're going to write them a letter and explain  
11 what had happened and, then, just tell them that, once we recover our money, they'll continue  
12 getting the pay, again.

13 **Tim Scott:** But, it's still in the pay status, but for that amount?

14 **Phil Horne:** That's correct. Yes.

15 **Mary Quillen:** But, that amount, what did you say?

16 **Phil Horne:** Approximately \$17,000.

17 **Mary Quillen:** Has already been paid out.

18 **Phil Horne:** Yes, ma'am. It's paid out to the oil and gas. Everyone in this well, except for  
19 Charlton Tiller had been overpaid, and EnerVest. We'll cover that money, internally.

20 **Mary Quillen:** Right.

21 **Bruce Prather:** This was done under Range Resources, originally.

22 **Phil Horne:** Equitable is the one that drilled the well and inadvertently paid the wrong amount.  
23 Of course, when these companies change hands, they usually just transfer the payment decks.  
24 So, Range paid for probably eight months until August 2014. Then, we just caught this when we  
25 did our last disbursement. We knew we had this one that we're doing, today. Then, we realized  
26 that there wasn't near enough money left. So, the people had been paid, in May. Everybody,  
27 from all the disbursements, from day one, had been incorrect.

28 **Mary Quillen:** So, this was when the well was, originally, drilled.

1 **Phil Horne:** In 2007, it started.

2 **Mary Quillen:** In 2007.

3 **Tim Scott:** So, this will correct it?

4 **Phil Horne:** Yes, it should. This will correct it. We've met with the Division of Gas and Oil.

5 Gary and Rick and Sarah reviewed this. They are familiar with it.

6 **Mary Quillen:** And, nobody came forward?

7 **Phil Horne:** No. They probably think we underpaid them.

8 **Bradley Lambert:** Just for the record, Table 1, Mr. Tiller will be paid out the exact dollar

9 amount that's listed in the table? Table 2 will be paid on a percentage basis?

10 **Phil Horne:** Table 2, I'm not seeing. Oh, yes. That's correct.

11 **Bradley Lambert:** I just wanted to get that on the record.

12 **Phil Horne:** Yes, sir.

13 **Bradley Lambert:** Okay.

14 **Donnie Rife:** Mr. Chairman. So, you're going to notify these people?

15 **Phil Horne:** We're going to write them a letter, as soon as this is approved and we've got our

16 direction. We've already got our letter prepared. We're going to write them a letter, to just let

17 them know. Then, of course, they can call with any questions.

18 **Donnie Rife:** Okay.

19 **Mary Quillen:** Right. So, Table 1 is the dollar amount and Table 2 is percentage.

20 **Phil Horne:** Yes, ma'am.

21 **Mary Quillen:** Okay.

22 **Bradley Lambert:** Anything further, Mr. Scott?

23 **Tim Scott:** That's all I have, Mr. Chairman.

24 **Bradley Lambert:** Do I have a motion?

25 **Donnie Rife:** Motion made for approval, Mr. Chair.

26 **Bill Harris:** Second.

1 **Bradley Lambert:** I have a motion and a second. Any further discussion? All in favor signify  
2 by saying yes.

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed, no. [No response]

5 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

6 **Bradley Lambert:** One abstention, Mr. Ratliff. Thank you, Mr. Scott. That's approved. Okay  
7 folks we're going to take about a ten minute break.

8 **Item Number 9**

9 **Bradley Lambert:** Ladies and gentlemen, it's time to resume our proceedings, this morning.  
10 We're calling Docket Item Number 9. A petition from CNX Gas Company, LLC, for pooling  
11 under Oakwood Coalbed Methane Gas Field 1. Unit Y47. Docket Number VGOB-16-0920-  
12 4098. All parties wishing to testify please come forward.

13 **Mark Swartz:** Mark Swartz and Anita Duty.

14 **Sarah Gilmer:** Ms. Duty, do you swear and affirm that your testimony is the truth, the whole  
15 truth and nothing but the truth?

16 **Anita Duty:** Yes.

17 **Donald Joyce:** Donald A. Joyce.

18 **Sarah Gilmer:** Do you swear and affirm that your testimony is the truth, the whole truth and  
19 nothing but the truth?

20 **Donald Joyce:** Yes.

21 **Bradley Lambert:** Mr. Swartz, you may proceed.

22 **Mark Swartz:** Okay. Anita, would you state your name for us, please?

23 **Anita Duty:** Anita Duty.

24 **Mark Swartz:** Who do you work for?

25 **Anita Duty:** CNX Land, LLC

26 **Mark Swartz:** Are you here on behalf of the applicant, CNX Gas Company, LLC?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And this is a petition for pooling?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** In the Oakwood Field?

4 **Anita Duty:** It is.

5 **Mark Swartz:** And, the Unit is Y47?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** What did you do to notify people that we were going to have a hearing, today?

8 **Anita Duty:** We mailed, by certified mail, return receipt requested, on August 19, 2016, and  
9 published in the Bluefield Daily Telegraph on August 24, 2016.

10 **Mark Swartz:** You filed that information online?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** The applicant here, if the application is granted, would also be the designated  
13 operator. Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Is CNX Gas Company, LLC, a limited liability company formed in the  
16 Commonwealth of Virginia?

17 **Anita Duty:** It is.

18 **Mark Swartz:** Is it registered with the DMME and the DGO?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Does it have a blanket bond on file?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** The plat, that is the next to last part of the application, shows two wells.  
23 Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** One of the wells, Y47A, is in the northern portion of the drilling window?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And, Y47 is a few feet within the southwest corner of the unit.

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Because it's an Oakwood Unit, this is a situation where you can actually apply to  
3 the Director for a location exception. Correct?

4 **Anita Duty:** Correct.

5 **Mark Swartz:** Are either one of these wells drilled?

6 **Anita Duty:** No.

7 **Mark Swartz:** And, you've applied for a permit for at least one of them. Correct?

8 **Anita Duty:** Correct.

9 **Mark Swartz:** Have you provided well cost information with your application?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** With regard to those two wells, what are your estimates?

12 **Anita Duty:** For Y47, the estimated cost is \$332,283. Then, estimated depth of 2,300 feet.  
13 Y47A, estimated cost, \$334,283. Estimated depth is 2,300 feet.

14 **Mark Swartz:** And, you have been able to either purchase or lease a significant piece of this  
15 unit. Correct?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** But, there are still some outstanding interests that you need to pool?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** I think those are identified in Exhibit B, if I'm not mistaken. If you go to the last  
20 page of Exhibit B3, how many acres in this unit are unleased?

21 **Anita Duty:** 32.16.

22 **Mark Swartz:** What percentage of the unit is that?

23 **Anita Duty:** 40.2%

24 **Mark Swartz:** The balance is either leased or acquired.

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Do you want to add any people as respondents, today?

27 **Anita Duty:** No.

1 **Mark Swartz:** Do we need to dismiss any folks?

2 **Anita Duty:** No.

3 **Mark Swartz:** I think we have an Exhibit B2, though, don't we? Let's look and see.

4 **Anita Duty:** From the previous filing, to last month's hearing. Yes.

5 **Mark Swartz:** The B2 Exhibit, when we filed, previously, was to account for a conveyance.

6 Correct? And a lease.

7 **Anita Duty:** Lease.

8 **Mark Swartz:** Those people are identified in Exhibit B2, as Barbara C. Baxter and Billie Ann

9 Trent?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Have you provided the Board with an Exhibit E?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** There is some limited requirement of escrow, here. Correct?

14 **Anita Duty:** There is.

15 **Mark Swartz:** What's the reason, if you know?

16 **Anita Duty:** Title conflict. Oil and gas title conflict.

17 **Mark Swartz:** You've also provided an Exhibit EE, which would provide for how people are to

18 be paid, going forward?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Is it your opinion that drilling two frack wells in this unit is a reasonable way to

21 develop the coalbed methane resource?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Is it your opinion that, if you combine a pooling order, pooling the outstanding

24 interest with the interest that you've already acquired by either acquisition or a lease, the

25 correlative rights of all owners of coalbed methane in this unit would be protected?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And, you've got an Exhibit E that you filed, as well, with some split agreements,

28 I believe?



1 **Anita Duty:** Yes.

2 **Mark Swartz:** Or, EE. I'm sorry. What lease terms have you offered, in general, with regard to  
3 the people that you've been able to contract with?

4 **Anita Duty:** \$5 per acre, per year, with a 5-year paid up term and 1/8 royalty

5 **Mark Swartz:** Would you recommend those terms to the Board?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** I believe that's all I have, Mr. Chairman.

8 **Bradley Lambert:** Ms. Duty, you said you have an application for one well. Which well have  
9 you applied for a permit for?

10 **Anita Duty:** 547.

11 **Bradley Lambert:** Did you testify to the amount of reserves potential, on those two wells?

12 **Anita Duty:** No.

13 **Mark Swartz:** It's in the application.

14 **Anita Duty:** 125 to 550.

15 **Bradley Lambert:** Okay. Thank you. Any other questions from the Board? [No response]  
16 Mr. Joyce?

17 **Donald Joyce:** I was just more or less to see if the Board voted for a force pool. That's the only  
18 reason I'm here. I was supposed to have an informal fact finding hearing. If I'm going to be  
19 force pooled, there's no reason for the hearing. That's the reason I'm here, today.

20 **Bradley Lambert:** Is that your hearing, this afternoon?

21 **Rick Cooper:** Yes, sir.

22 **Donald Joyce:** If you all vote to force pool it, there's no need for the hearing.

23 **Bradley Lambert:** Would the vote of the Board have a definite outcome on the results of the  
24 hearing?

25 **Rick Cooper:** It would.

26 **Bradley Lambert:** Could you tell the Board the grounds for requesting a hearing?

27 **Rick Cooper:** I can. The objecting party has submitted that it directly impinges upon the  
28 royalty owner's gas and oil interest, and also put an infringement on the use of the property.

1 **Bradley Lambert:** Any questions from the Board?

2 **Bill Harris:** I'm a little confused. It said that if we do pool, what Mr. Joyce is saying is that  
3 there is no need for the...?

4 **Mark Swartz:** That's his choice. He could have the hearing and proceed with his objection.  
5 He's just telling you that's what he's going to do.

6 **Donald Joyce:** In other words, my complaint was, originally, I didn't feel I was being paid  
7 enough for what was underground. That was my complaint. If you all vote to force pool, I will  
8 have no choice in the matter.

9 **Bill Harris:** Now, were you the one that requested the informal fact finding hearing?

10 **Donald Joyce:** Yes.

11 **Bill Harris:** Okay. That wasn't really clear. I'm sorry. You were saying that you would be  
12 satisfied if you are included in the pooling.

13 **Donald Joyce:** We've been negotiating. Last week, Darrin offered basically the same, original,  
14 offer. I declined it. Basically, that's where we stand, right now. I declined it, yesterday, on their  
15 voicemail. They got it, this permit future, 47A, which would be on my property, will never  
16 happen. If I enter into a force pool, there will be no wells drilled on our property, period.

17 **Donnie Rife:** That's what you want?

18 **Mary Quillen:** I'm not sure what you're saying. What are you talking about?

19 **Donald Joyce:** They got a future well, 47A. They, originally, had three wells to be drilled on  
20 our property, or two wells. That's future plans. And, if I am placed in a force pool, there will be  
21 no agreements, as far as drilling on our property.

22 **Bradley Lambert:** Is Y47 on your property?

23 **Donald Joyce:** No, 47A is.

24 **Bradley Lambert:** Okay.

25 **Donald Joyce:** That would be on our property and it will not be drilled. There's also a X47,  
26 that's supposed to be drilled. It will not be drilled.

27 **Mary Quillen:** Is your property with 47 or 47A?

28 **Donald Joyce:** 47A, ma'am.

29 **Anita Duty:** Ms. Quillen, on the plat that we have, he is 2B and 2G.

1 **Mary Quillen:** 2B and 2G.

2 **Anita Duty:** 2B is kind of in the middle, there, where 47A is proposed.

3 **Mary Quillen:** It's in the window.

4 **Anita Duty:** Yes.

5 **Mary Quillen:** That's 47A.

6 **Anita Duty:** And that well is on his property, but if he doesn't agree to it, then it will not be. It  
7 will not be drilled. That's just the proposed location. The well that we currently have filed a  
8 permit for is Y47, which is in the lower left-hand corner.

9 **Mary Quillen:** And, that is not on his property.

10 **Anita Duty:** No, that's almost as far away from it as it can be.

11 **Mary Quillen:** Okay. I'm not sure.

12 **Anita Duty:** I think one of the issues he had, he wanted to sell his gas, rather than lease it. I  
13 think that was one of the issues he had. He also thought that, if he was force-pooled, that he  
14 would have to share in the cost of the well. I think we've answered that question for him. He  
15 realizes that.

16 **Bill Harris:** Unless you choose to. Now, some people choose to.

17 **Anita Duty:** Yes, it's a choice. You're not forced to do that, but you can do that, if you would  
18 like to. I think, maybe, that helped you a little bit, I think.

19 **Bruce Prather:** Really his one big complaint is the fact that, if you do drill on him, you're not  
20 paying, what he considers, suitable damages.

21 **Mark Swartz:** If we drill that second well, we're going to move it. If we can't reach an  
22 agreement, we're going to move it. We try to do that.

23 **Mary Quillen:** Was it the gas?

24 **Mark Swartz:** We made an offer to purchase his royalty interest, which was not enough money.  
25 We didn't reach an agreement, so we've offered to lease. We've offered to purchase his royalty  
26 interest and, as of yesterday, they were still negotiating. Darrin's here, today, but we haven't  
27 reached an agreement.

28 **Mary Quillen:** So, if you don't reach an agreement, it will just be moved to another location,  
29 which is off of his property? His gas will stay in...?

1 **Mark Swartz:** Well, we would still have to file a permit. We can't just do that. We would have  
2 to file a well-work permit application for the second well. Obviously, we're not going to be able  
3 to locate it where it is on the plat, here, because he's going to object. He's telling us that.

4 **Mary Quillen:** Right.

5 **Mark Swartz:** So, we would file the second permit, for a location off of his surface, but he  
6 would, then, because he's a royalty owner, have an opportunity to object to that, as a royalty  
7 owner. But, that hasn't happened, yet.

8 **Bill Harris:** I misunderstood something. So, you're saying that if you are pooled, then we do  
9 need to go forward with the fact finding?

10 **Paul Kugelman:** There's no fact finding going on, today here.

11 **Bradley Lambert:** No.

12 **Donald Joyce:** My complaint was I didn't feel that I was being compensated.

13 **Bill Harris:** Appropriately for gas.

14 **Donald Joyce:** Right. That's for the fact finding, for the gas.

15 **Mary Quillen:** For the gas. Okay. We just wanted to clarify what it was. It was confusing.  
16 What you were not being paid for, or paid enough for, is the gas.

17 **Donald Joyce:** Right.

18 **Anita Duty:** To sell his interest.

19 **Mary Quillen:** Right.

20 **Anita Duty:** To sell his interest, not lease. That was the difference. The thing that was part of  
21 the misunderstanding, last month, is his offer that he had told us, we didn't realize that was for  
22 purchase, not to lease.

23 **Paul Kugelman:** Okay.

24 **Mary Quillen:** Oh, I see.

25 **Anita Duty:** So, currently, the only well that we have filed a permit application for is Y47,  
26 which is not on his property.

27 **Mary Quillen:** Right.

28 **Anita Duty:** The other one is just a proposed location that's been on the map.

1 **Mary Quillen:** So, what we're voting on, here, but they're both included in this particular  
2 agenda item, 47A and 47?

3 **Mark Swartz:** Yes, if we're going to drill two wells, we need to get an order from you, that  
4 authorizes us to produce two wells, from this unit. Then, we need to get with him to get a  
5 permit, Mr. Cooper. So, we try to make one trip, sort of coming back to where the Chairman  
6 was, this morning. We could come for every well or we could make one trip. So, when we pool,  
7 we always ask for two wells because, if we drill the second one, we don't have to come back.  
8 We have to permit it, through the DGO. So, that's why.

9 **Mary Quillen:** Do you have the permit for 47?

10 **Mark Swartz:** No. There's a hearing set for 3:00, this afternoon, to allow him to present his  
11 objections to the well or to permit. He's telling us, I think, that he may not come.

12 **Donald Joyce:** Well, if it's placed in a forced pool, there's no need because I'm...the royalty's  
13 set.

14 **Paul Kugelman:** Is it fair to say that the issue in the petition is whether the Board is going to  
15 issue an order for force pooling the unit?

16 **Mark Swartz:** Correct.

17 **Paul Kugelman:** And, that's it.

18 **Mark Swartz:** I think we got, kind of, distracted.

19 **Paul Kugelman:** That's why I asked the question, sir.

20 **Mark Swartz:** Yes.

21 **Bradley Lambert:** Let's keep in mind that this is for a petition for pooling under this unit. So,  
22 that's what's before us, this morning, whether or not to approve the petition. Do you have  
23 anything further, Mr. Swartz?

24 **Mark Swartz:** No, I do not.

25 **Bradley Lambert:** Okay. Having heard a lot of discussion, to get us back on track, do we have  
26 a motion to approve the pooling of this unit?

27 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

28 **Donnie Rife:** Second.

29 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
30 response] All in favor, signify by saying yes.

1 **Board:** Yes.

2 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

3 **Item Number 10**

4 **Bradley Lambert:** We're calling Docket Item Number 10. A petition from CNX Gas  
5 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
6 Board's Escrow Agent, attributable to a portion of Tracts 3 & 10, as depicted upon the annexed  
7 table; (2) authorization to begin paying royalties directly to the parties listed in the petition; (3)  
8 dismissal of oil and gas owners listed in the petition; and (4) dismissal of coal owners listed in  
9 the petition. [Docket Number VGOB 91-0716-0136-03]. All parties wishing to testify please  
10 come forward.

11 **Mark Swartz:** Mark Swartz and Anita Duty.

12 **Bradley Lambert:** Mr. Swartz, before you begin, let me ask a question. I'm almost sure that I  
13 haven't seen this before. That's item number 3, dismissal of oil and gas owners. Adding to that,  
14 dismissal of coal owners. So, I'm not sure who owns what because we're dismissing everybody.

15 **Donnie Rife:** That covered them all, didn't it?

16 **Anita Duty:** We're dismissing oil and gas owners because they do not own the property,  
17 anymore. We're dismissing the coal owner because of the law.

18 **Bradley Lambert:** Did the oil and gas owners sell the property?

19 **Anita Duty:** Yes.

20 **Bradley Lambert:** Okay. You may begin, Mr. Swartz.

21 **Mark Swartz:** There's a B2 Exhibit, dismissals of the people who no longer own. We've got a  
22 sale and, then, we've got some people that don't own, so that's why.

23 **Bradley Lambert:** That's under B2?

24 **Anita Duty:** B2 is the dismissals, yes.

25 **Mark Swartz:** Right.

26 **Bradley Lambert:** Okay.

27 **Mark Swartz:** Not an owner is the answer, there. So, you're absolutely right. I mean, it would  
28 be very unusual, but for the fact that they are no longer owners. Correct.

29 **Bradley Lambert:** Okay. Maybe we should have said that they're no longer owners.

1 **Mark Swartz:** Anita, this is a.... State your name for us, please.

2 **Anita Duty:** Anita Duty.

3 **Mark Swartz:** You're here on behalf of CNX Gas Company, LLC, with regard to this petition.

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, we're requesting a disbursement from escrow?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And, we're requesting the right and opportunity to pay the people who receive  
8 escrow disbursements, if this is granted, and ability to pay them, directly, in the future?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, we have some coal owner dismissal issues that we want to talk about.

11 **Anita Duty:** Yes.

12 **Mark Swartz:** The reasons for this request are, first of all, we have a transaction. So, we're  
13 dismissing some people because we've got a purchase and sale. Right?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, then, we have some split agreements?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Then, we have the implementation of the effect of the House Bill, with regard to  
18 gas claimants, so that's a third reason.

19 **Anita Duty:** It is.

20 **Mark Swartz:** Then, with regard to dismissal of coal owners, we have provided notices to  
21 conflicting coal claimants, that they had 45 days to come up with either an agreement or proof of  
22 an action. So, we're going to deal with that, as well, today.

23 **Anita Duty:** Yes.

24 **Mark Swartz:** This is a plat, showing the unit. If you come down to Table 1, we're talking  
25 about disbursements from Tracts 3 and 10. Correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And, this is going to be a partial disbursement. We're still going to need  
28 escrow?

1    **Anita Duty:** It is.

2    **Mark Swartz:** Have you, on Table 1, given a name and address of all of the people that you're  
3    proposing receive a disbursement?

4    **Anita Duty:** Yes.

5    **Mark Swartz:** With regard to each person, in the second column from the right, have you given  
6    a percentage?

7    **Anita Duty:** Yes.

8    **Mark Swartz:** That percentage for each person, or company, is what the Escrow Agent should  
9    use at the time the Escrow Agent is going to be making the disbursement. The Escrow Agent  
10   should use that percentage, times the balance on hand, at that point, to calculate the dollar  
11   amount.

12   **Anita Duty:** Yes.

13   **Mark Swartz:** Then, you provided a revised, or updated, Exhibit E, which would reflect the  
14   situation if the disbursements are made?

15   **Anita Duty:** Yes.

16   **Mark Swartz:** And, EE, which reflects payment going forward?

17   **Anita Duty:** It does.

18   **Mark Swartz:** And, you provided your affidavit of mailing and a proof of mailing. Correct?

19   **Anita Duty:** Yes.

20   **Mark Swartz:** With regard to the proof of mailing, you've got three people who didn't claim  
21   their mail and one person who refused his mail. Correct?

22   **Anita Duty:** Yes.

23   **Mark Swartz:** And, we're proposing to go ahead with the disbursement and eliminate those  
24   four people?

25   **Anita Duty:** Yes.

26   **Mark Swartz:** Then, you've got an Exhibit A, which is a reconciliation. Correct?

27   **Anita Duty:** Yes.



1 **Mark Swartz:** I'm sorry. Exhibit J. Did you undertake to locate all of the royalty checks that  
2 the operator had issued?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Then, did you undertake to find a corresponding deposit for each one of those  
5 checks?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Were you able to do that?

8 **Anita Duty:** We did.

9 **Mark Swartz:** Having done that, did you then do a calculation to determine what your math  
10 showed, in terms of what you would expect to see in the escrow account, as of July 31?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Then, did you compare that to the First Bank and Trust balance, on July 31?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Was there a difference?

15 **Anita Duty:** We were showing \$101.13 more than the bank.

16 **Mark Swartz:** Did you mail the 45-day notice to coal owners?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And, this is one of those situations where the coal owner actually got back to  
19 you with a split agreement. Right?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** So, with regard to some of Hugh McRae's interest, as a coal owner, they have an  
22 agreement?

23 **Anita Duty:** They do.

24 **Mark Swartz:** Then, with some of their other interest, as a coal owner, they don't?

25 **Anita Duty:** Correct.

26 **Mark Swartz:** Here, we've got a situation where Hugh McRae is going to receive some funds,  
27 going forward, by reason of the split agreement, but then they're going to be dismissed, as a coal  
28 owner, without an agreement.

1 **Anita Duty:** Correct.

2 **Mark Swartz:** And, you provided your proof of notice to several coal owners, which were  
3 given on different dates. Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, to the extent that these coal owners have not already been dismissed, by  
6 prior order of the Board, you're seeking a dismissal, today. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Then, we talked about Exhibit B2, earlier, in terms of the dismissals, because  
9 they no longer own it.

10 **Anita Duty:** Correct.

11 **Mark Swartz:** That's all I have.

12 **Bradley Lambert:** Any questions from the Board?

13 **Rick Cooper:** I have one question, Mr. Chairman.

14 **Bradley Lambert:** Mr. Cooper.

15 **Rick Cooper:** Have you revised the documents, to remove the four people that you were talking  
16 about? Are you removing part of them?

17 **Anita Duty:** No. They were unclaimed, or refused.

18 **Sarah Gilmer:** Who are the four?

19 **Mark Swartz:** Jody Baldwin, Rodney Boyd, James Vance and Sandra Street

20 **Mary Quillen:** James Vance is on this one that's being paid.

21 **Anita Duty:** He just didn't pick up his mail. It got there. He just didn't go get it. We mailed to  
22 the W-9 address that we had. They didn't say that the mail was returned because it was a bad  
23 address, just that he didn't pick it up.

24 **Mary Quillen:** Did you get the W-9?

25 **Anita Duty:** Yes. We don't file them, unless we have W-9's.

26 **Mary Quillen:** Okay. Because he's on this one, Tract 3.

27 **Donnie Rife:** So, why would you consider taking him off of this one. Why would you consider  
28 removing him?

1 **Mark Swartz:** We've had this discussion, in the past. There are questions of efficiency and,  
2 there are questions of notice. People would not be on this list if we didn't already have the W-9  
3 from them. So, it's reasonable to assume that they're expecting or interested in receiving a check  
4 because they gave us a W-9 and they didn't have to do it. The problem is we're required to give  
5 them notice of these proceedings, which is a different undertaking. I think we've had this  
6 discussion, in the past, and the direction, as I understand it, is we haven't successfully mail to  
7 them on some basis that shows mailing. We have to delete them. We can't disburse to them.

8 **Paul Kugelman:** It makes the process incredibly inefficient when they don't pick up their mail.  
9 Personally, I would love to be able to say they sent in a W-9 and they're expecting payment and  
10 that's enough. The problem I have is the statute is written such that it has to comply with certain  
11 notice requirements. I'm concerned that, when they don't receive it, they don't have appropriate  
12 notice and, then, we have constitutional violations that we engage in, if we go ahead and proceed  
13 without proper notice. It's a constitutional constraint, more than it is a practicality.

14 **Mark Swartz:** As long as we're having this discussion, most of the time it's unclaimed or in  
15 transit and we don't know what's going on, there. Here, though, we've actually got somebody  
16 who refused it. To me, that's evidence that he had notice.

17 **Paul Kugelman:** And opportunity. Right.

18 **Mark Swartz:** Can we send him the check?

19 **Paul Kugelman:** Obviously, he submitted a W-9, because he's on the....

20 **Mark Swartz:** Right. So, we've got his W-9. We know he got an opportunity to have the mail  
21 and he just said, "Go away."

22 **Mary Quillen:** Is this James Vance?

23 **Mark Swartz:** This is Rodney Boyd, actually.

24 **Mary Quillen:** Oh, he's not on this. This James Vance is the one that we were concerned about  
25 because you said James Vance was one of the ones to be removed.

26 **Donnie Rife:** He's already receiving.

27 **Mary Quillen:** He's on this Table 1.

28 **Sarah Gilmer:** It appears, by the documents that I'm looking at, our current docket, James  
29 Vance is the only one listed, that needs to be removed. The other three aren't on the petition, at  
30 all. I don't see them on the exhibits or in the chart.

1 **Mark Swartz:** I think we mailed to the people that we were seeking dismissals because they  
2 were no longer an owner. That's why the list is so long. Table 1 is real short, but the mailing list  
3 is quite a bit longer. That's the explanation.

4 **Sarah Gilmer:** Okay.

5 **Mary Quillen:** So, what's the story with James Vance? Is he in or is he out?

6 **Mark Swartz:** If he's not on the Table 1 list, then he was to be dismissed on the B2 list.

7 **Mary Quillen:** He's on the Table 1, but you also named him as one of the people that was going  
8 to be removed.

9 **Mark Swartz:** James Vance is on Table....I'm just taking you at your word. I haven't looked,  
10 but if he has not picked up his mail, we cannot pay.

11 **Paul Kugelman:** Is he the one that refused it?

12 **Mark Swartz:** No.

13 **Paul Kugelman:** Okay.

14 **Bradley Lambert:** Have we got any further discussion? [No response] Mr. Swartz, have you  
15 got anything further?

16 **Donnie Rife:** I don't think we got the answer we was looking for on Mr. Vance, yet.

17 **Paul Kugelman:** He's never picked it up. He didn't refuse it. He just never picked it up.

18 **Bill Harris:** That was the notice.

19 **Paul Kugelman:** But, we have a valid W-9.

20 **Donnie Ratliff:** So, he has communicated back to us.

21 **Bill Harris:** But, the check would go regular mail.

22 **Paul Kugelman:** That he wants to be paid, but not that he's aware that this is being heard,  
23 today. That's the problem. That's where I get hung up because they do want to be paid. I mean,  
24 if you submit the W-9, obviously, they're agreeing to receive money, but constitutionally  
25 speaking, due process requires somebody to have notice of the hearing, so they have an  
26 opportunity to be heard, if they so choose. While they submit the paperwork to be paid, we don't  
27 know if they want to come in and object to anything.

28 **Bill Harris:** So, we're saying that knocks him out of getting the check, then?

1 **Paul Kugelman:** To disburse, you have to have opportunity to comment on the petition. The  
2 petition is what the vehicle is, for the disbursement.

3 **Donnie Rife:** That's a pretty good size little check, right there. I don't think they need to take a  
4 chance on taking this man's money away from him.

5 **Mark Swartz:** You need to be aware of what happens, here. I would still like to pay the guy  
6 that refused it and send him a check, but with regard to people who don't want to pick up their  
7 mail, and see it's a communication from my client, and they don't want to pick it up, this is going  
8 into neutral for them, just so you all understand. We are not going to continue to chase people  
9 who should pick up their mail. I don't mean that in a bad way, but our ongoing obligation,  
10 exercise due diligence, I think is satisfied. If we have a good address and people get their three  
11 notices. They hold it for the length of time they're supposed to hold it for them and send it back  
12 to us. Then, the ball shifts back to them, just so you know. That's the result of this. At some  
13 point, we're going to publish and tell people this is what you need to do, so they get one more  
14 chance.

15 **Mary Quillen:** Has this been returned to you all, for failure to pick up?

16 **Mark Swartz:** That's how we know. The unclaimed comes back to us.

17 **Anita Duty:** The unclaimed will have on the envelope. It will say, "First notice left." It will  
18 have the date. Then, it will say, "Second notice left," and has the date. After the third notice is  
19 left, they send it back to us.

20 **Mary Quillen:** But, you have gotten his back, James Vance?

21 **Mark Swartz:** Right.

22 **Anita Duty:** We actually get the envelope back with those dates and things written on there.

23 **Mary Quillen:** Then, he can't be paid on this Table 1.

24 **Anita Duty:** What we're saying is we mailed to the address he provided on the W-9. The post  
25 office has written on there that they left him three notices and he did not pick it up.

26 **Mary Quillen:** Right.

27 **Anita Duty:** They didn't write on the envelope that this address is bad or he doesn't live here or  
28 unable to forward, none of that.

29 **Bruce Prather:** We have an address for him.

30 **Mark Swartz:** Apparently.

31 **Mary Quillen:** But, they were unable to deliver it.

1 **Mark Swartz:** No. He has to pick it up. He has to sign for it.

2 **Mary Quillen:** Right.

3 **Anita Duty:** It's certified mail. They get the little card in the mail.

4 **Mary Quillen:** Right. My question is he's still on this list of Table 1.

5 **Mark Swartz:** We have been in several places on this issue, over the last year. What I  
6 understood, in August, was that we could not rely on the address in a W-9 and an unclaimed  
7 mailing.

8 **Mary Quillen:** Right.

9 **Mark Swartz:** So, we're going to have to take Mr. Vance off of here, but we are not going to  
10 chase Mr. Vance. He's got \$9,000 and change coming. If he doesn't want it, he needs to do  
11 something.

12 **Mary Quillen:** I'm saying, when we vote, we vote that all of these people, except Mr. Vance,  
13 that's listed on Table 1, be paid.

14 **Mark Swartz:** Right. We've said that several times. I don't agree with that process, but that's  
15 what we're....

16 **Mary Quillen:** That's what has been...

17 **Bill Harris:** Is he aware, if he does not pick up certified mail, after mailing in his W-9, is he  
18 aware that he won't get his check?

19 **Mark Swartz:** Who knows? I have no idea.

20 **Mary Quillen:** That can't be the responsibility of them, to know whether he's aware, or not.  
21 That goes beyond reasonable.

22 **Rick Cooper:** If I could make sure clarity, as far as gas and oil, so we can understand, too,  
23 because we see these. Are we saying, if the certified mail, this guy could work second shift,  
24 third shift, I'm not sure what the conditions are, but if he does not pick up his certified mail, then  
25 we do not prove that? I guess is what I am asking. Even though he's turned in his W-9 and it's  
26 an accurate address?

27 **Mary Quillen:** I think that's what we had advised from our Board attorney, that this is the  
28 interpretation.

29 **Anita Duty:** The only other thing, I guess we could try to mail him that notice one more time,  
30 before we actually remove him. We could try that. We've done that before.

1 **Bill Harris:** And, the notice has to be certified mail? See, that may be the sticking point.

2 **Mark Swartz:** I never mail certified mail, return receipt requested because stuff comes back all  
3 the time. People don't want to sign for something. There's a lot of people that just won't sign for  
4 it. So, we can't just put it in an envelope. We need to send it certified mail, return receipt  
5 requested.

6 **Mary Quillen:** I agree with that. This is a significant amount of money.

7 **Donnie Ratliff:** Mr. Chairman, are you ready for a motion?

8 **Bradley Lambert:** Yes, sir.

9 **Donnie Ratliff:** I make a motion...

10 **Rick Cooper:** If I could, could I ask for clarity, for us, when we receive these? I just need to  
11 know, for sure. We get a little confused, too.

12 **Bradley Lambert:** Donnie's going to clarify it, in his motion.

13 **Mark Swartz:** Right. It's clarified in the motion.

14 **Bradley Lambert:** Donnie's going to clarify it, in his motion.

15 **Mark Swartz:** There's no general rule. You're going to tell us what you're going to do, is my  
16 assumption.

17 **Bradley Lambert:** Yes.

18 **Rick Cooper:** If I may, it makes it difficult for us to approve these notices, if we're not 100%  
19 sure.

20 **Bradley Lambert:** You can read it, in the motion. It will be in the motion and in the Board  
21 record.

22 **Donnie Ratliff:** Motion to approve the petition, as presented, with the exception that we remove  
23 James E. Vance, from Table 1, because he didn't receive proper notice.

24 **Bradley Lambert:** It's that simple.

25 **Donnie Rife:** Second, Mr. Chairman.

26 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? Now, you  
27 may ask your question.

28 **Rick Cooper:** If I understand correctly, then, if the recipient, whomever they mailed to, does  
29 not actually pick up his certified mail, therefore, that's not adequate notice?

1 **Bradley Lambert:** That's correct.

2 **Anita Duty:** Other than refused.

3 **Bruce Prather:** Aren't we doing that?

4 **Anita Duty:** Refusing actually had to say that they did not want it, so they had to do some kind  
5 of action on it.

6 **Paul Kugelman:** There's a difference between a passive refusing to pick it up and an active,  
7 saying, "I don't want it." That's the point, I think, that's being made.

8 **Bill Harris:** We're treating them both as the same, though.

9 **Paul Kugelman:** No, we're not. That's why we're making the distinction.

10 **Anita Duty:** The refused person is not part of the disbursement. He's just a notice that he was  
11 being dismissed, as no longer an owner, so he wasn't affected by a disbursement.

12 **Mary Quillen:** That isn't part of this. This was a sidebar.

13 **Mark Swartz:** We noticed people for two reasons: one, they were getting money and they were  
14 on a dismissal.

15 **Paul Kugelman:** Right.

16 **Mark Swartz:** The second person that we're talking about, not that he was going to get money,  
17 but that he was going to be dismissed. He didn't pick up his mail.

18 **Mary Quillen:** Right. But, he's not listed on Table 1.

19 **Mark Swartz:** Right.

20 **Bruce Prather:** Once we do this, then, is anything that he has, coming forward, do we cut him  
21 out of everything, from then on because of what we're doing on this Board?

22 **Bradley Lambert:** This situation is not, really new. We've dealt with this a couple months ago,  
23 maybe longer, that if it shows it's unclaimed, then the issue is that person hasn't received proper  
24 notice. Therefore, we can't disburse them because he didn't receive proper notice. We don't  
25 know that, just because it's unclaimed, but we're assuming that he didn't receive notice, therefore  
26 he's removed from the disbursements. It's really not anything new. I think we made it more  
27 complicated than it really needs to be.

28 **Mary Quillen:** Because this is what we've done, in the past.

29 **Bill Harris:** At what point do they find out that they're not getting paid?



1 **Paul Kugelman:** They may never. I mean, that's the problem.

2 **Mark Swartz:** Correct. It's possible that they might never.

3 **Bradley Lambert:** Even if you send him a \$9,000 check, there's a good possibility he might not  
4 pick it up.

5 **Mark Swartz:** Right.

6 **Mary Quillen:** Exactly.

7 **Bill Harris:** So, at no point, do we send him a letter that's not certified, that says you have  
8 \$9,000 here. You need to do this to get it.

9 **Mark Swartz:** Correct.

10 **Bradley Lambert:** Because he received his W-9. He knows that it's there. He received a W-9.

11 **Paul Kugelman:** It also has to be done in accordance with 361.19, which is part of the  
12 procedural problem, or issue, that we're dealing with.

13 **Bill Harris:** There's a disconnect somewhere in this.

14 **Paul Kugelman:** There is. No doubt about that.

15 **Mark Swartz:** It's the responsibility. People who do stuff like this, there are consequences  
16 associated with it. We don't need to chase them around to do normal things that a normal human  
17 being should do in the course of daily activities.

18 **Mary Quillen:** A reasonable expectation of accepting responsibility is exactly what we have to  
19 operate by.

20 **Mark Swartz:** Sorry. People need to step up to the plate and do some basic things, to get  
21 through the day. Getting your mail is one of them.

22 **Bradley Lambert:** We have a motion. Let me just clarify the motion. The motion is to  
23 approve, but to remove the parties that are unclaimed, from payment, not refused, but the parties  
24 that are unclaimed, for the payment, and we proceed with the disbursement. We have a motion  
25 and, I think, Donnie, you seconded?

26 **Donnie Rife:** Yes.

27 **Bradley Lambert:** I called for further discussion. We've had our discussion. All in favor  
28 signify by saying yes.

29 **Board:** Yes.

1 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved.

2 **Item Number 11**

3 **Bradley Lambert:** Docket Item Number 11. This petition, again, has Anna R. Lambert. The  
4 Chairman doesn't know Anna R. Lambert, but I'm going to recuse myself from this one and ask  
5 Mr. Ratliff if he will take this, particular, petition.

6 **Donnie Ratliff:** This is a petition from CNX Gas Company, LLC, for (1) the disbursement of  
7 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 92A,  
8 92B, 94, 95D, 95E, as depicted upon the annexed table. This is Docket Number VGOB-92-  
9 0421-0218-01. All parties interested, please come forward.

10 **Mark Swartz:** Mark Swartz and Anita Duty.

11 **Donnie Ratliff:** You may proceed.

12 **Mark Swartz:** Anita, state your name for us, again.

13 **Anita Duty:** Anita Duty.

14 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC, with regard to this docket  
15 item?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And, we're asking for a disbursement order, authorization to direct pay and  
18 dismissal of coal owners.

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, the reasons for the request are the royalty split agreements and we have the  
21 effect of the House Bill, in terms of the entitlement of gas claimants to receive funds. We've  
22 given 45-day notices to coal claimants. Correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** We have a two-page Table 1?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** With regard to Table 1, this is the list of people that you proposed when you  
27 filed this, receive disbursements?

28 **Anita Duty:** Yes.

1    **Mark Swartz:** And, they're in Tract 92A and Tract 92B, 94, 95D and 95E. Correct?

2    **Anita Duty:** Yes.

3    **Mark Swartz:** With regard to each person or company, have you given their name and mailing  
4    address?

5    **Anita Duty:** Yes.

6    **Mark Swartz:** And, for each person or company, have you given, in the second column from  
7    the right-hand margin, a percentage that the Escrow Agent should use to multiply times the  
8    deposit on hand, to come up with a dollar amount on the day that the disbursement is to be  
9    calculated?

10   **Anita Duty:** Yes.

11   **Mark Swartz:** Have you provided a revised Exhibit E?

12   **Anita Duty:** Yes.

13   **Mark Swartz:** That indicates that, once these disbursements are made, if they are made, if it's  
14   approved and they're made, there will no longer be a need for an escrow account.

15   **Anita Duty:** Correct.

16   **Mark Swartz:** And, the Board can enter an order that says, to the Agent, to close the account  
17   after you make these disbursements?

18   **Anita Duty:** Yes.

19   **Mark Swartz:** Then, you provided a revised Exhibit EE, with regard to how people are to be  
20   paid, going forward?

21   **Anita Duty:** Yes.

22   **Mark Swartz:** You provided us with proof of certification of notice of mailing and everybody  
23   got their mail?

24   **Anita Duty:** Yes.

25   **Mark Swartz:** Then, you've given us an Exhibit J, which is the reconciliation?

26   **Anita Duty:** Yes.

27   **Mark Swartz:** Did you try to identify all royalty checks and, then, look for a deposit?

28   **Anita Duty:** We did.

1 **Mark Swartz:** When you did that, what did you discover?

2 **Anita Duty:** We found all the deposits.

3 **Mark Swartz:** Then, did you do a calculation, to compare your calculated balance to the end of

4 July 2016 First Bank and Trust balance?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, there was a difference of \$2.39?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** You had more than the bank.

9 **Anita Duty:** Yes.

10 **Mark Swartz:** In your calculations?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Anita pointed out to me that there was not an '01 disbursement, as shown on the

13 original Exhibit J. We have a revised one, to remove that. It straightens that out. Right?

14 **Anita Duty:** Yes, I've got copies, if anybody wants one. We've uploaded it.

15 **Mark Swartz:** Okay. So, it's in the system, then?

16 **Anita Duty:** It is.

17 **Mark Swartz:** Okay. And, you've got a supplemental affidavit, with regard to mailing to coal

18 owners?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Once again, we've got a coal owner whose got some split agreements, but not

21 all.

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And, you've attached certification of notice, with regard to Coal Mountain,

24 indicating they signed for their mail.

25 **Anita Duty:** Yes.

26 **Mark Swartz:** I believe that's all I have, Mr. Chairman.

27 **Donnie Ratliff:** Any questions from the Board?

1 **Mary Quillen:** Just one clarification. Some of these are as a result of the House Bill, the 100%?

2 **Mark Swartz:** Correct.

3 **Mary Quillen:** Then, the others are 50/50 splits?

4 **Mark Swartz:** Correct.

5 **Mary Quillen:** Thank you.

6 **Donnie Ratliff:** Any other questions? [No response] Anything else, Mr. Swartz?

7 **Mark Swartz:** No.

8 **Donnie Ratliff:** Do I have a motion?

9 **Donnie Rife:** Motion made for approval, Mr. Chair.

10 **Donnie Ratliff:** Do I have a second?

11 **Bill Harris:** Second.

12 **Donnie Ratliff:** All those in favor?

13 **Board:** Yes.

14 **Donnie Ratliff:** Those opposed? [No response] Motion approved, Mr. Swartz.

15 **Bradley Lambert:** One abstention.

16 **Donnie Ratliff:** With one abstention. Mr. Lambert.

17 **Item Number 24**

18 **Donnie Ratliff:** We're going to call Docket Item Number 24. It also has a Lambert, in it. It's

19 not known, by the Chair. A petition from CNX Gas Company for (1) the disbursement of funds

20 deposited with the Board's Escrow Agent, attributable to Tracts 1A, 1C, 1D & 1E. This is

21 Docket Number VGOB-02-1217-1104-02. All parties interested, please come forward.

22 **Mark Swartz:** Mark Swartz and Anita Duty.

23 **Donnie Ratliff:** You may proceed, Mr. Swartz.

24 **Mark Swartz:** Anita, could you state your name for us, please?

25 **Anita Duty:** Anita Duty.

1 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC, with regard to this  
2 petition?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, we're seeking a disbursement from escrow, authorization to pay some folks  
5 directly, in the future, and a dismissal, with regard to some coal. Correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** The reasons for this petition are we have some royalty split agreements. We  
8 have the effect of the House Bill, with regard to allowing us and the Board to pay out of escrow  
9 to gas claimants and we've got 45-day notices to coal owners without a complete response, let's  
10 put it that way.

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Have you provided the Board with a Table 1?

13 **Anita Duty:** We have.

14 **Mark Swartz:** It's several pages.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Two pages. Have you, on Table 1, identified the tracts from which the  
17 disbursements are to come?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** For each tract and each disbursement, have you either identified, by name, a  
20 person or a company?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And provided a mailing address for each person or company who is supposed to  
23 receive a disbursement?

24 **Anita Duty:** We have.

25 **Mark Swartz:** In the second column from the right-hand side of Table 1, have you provided a  
26 percentage for the Escrow Agent to use, to multiply times the balance on hand at the time of the  
27 disbursement, which will then yield the dollar amount of the check?

28 **Anita Duty:** Yes.

29 **Mark Swartz:** After the disbursement, there will be a change in Exhibit E. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Have you provided a revised Exhibit E?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, likewise, there will be a change in Exhibit EE, which is the going forward  
5 payment description. Have you provided that revised exhibit, as well?

6 **Anita Duty:** We have.

7 **Mark Swartz:** With regard to the account reconciliation, do you have an Exhibit J?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** In that exhibit, it looks like there was a change that you caught. Correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** What was that?

12 **Anita Duty:** It was showing the deposit on July 2009 was credited to BA113.

13 **Mark Swartz:** Has that been corrected?

14 **Anita Duty:** It appears because it's in our reconcile.

15 **Mark Swartz:** Okay. Then, in addition to that, did you attempt to identify all of your royalty  
16 checks and look for a corresponding deposit?

17 **Anita Duty:** We did.

18 **Mark Swartz:** When you did that, were you able to find a deposit for each check?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Then, did you do your math, with regard to what your estimate, as to the amount  
21 on deposit would have been the end of July 2016?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Then, you've got the actual bank balance from First Bank and Trust and, when  
24 you compare them, what's the difference?

25 **Anita Duty:** We're showing \$405.46 more.

26 **Mark Swartz:** We've got a supplemental affidavit of mailing to coal owners. Right?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Once again, we've got a situation where the coal owner obtains some split  
2 agreements, but not all?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** So, in some respects, the coal owner is going to receive royalty payments and, in  
5 others, their claim is going to be dismissed.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And, you've got a certificate of mailing, with regard to the coal owner. Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Since originally filing this, have you revised the affidavit, with regard to  
10 mailing?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay. With regard to this affidavit of mailing and the attachments, is this an  
13 updated certification of notice?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, it indicates that there was a Mickey Hale that did not claim his/her mail.

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Have you already removed?

18 **Anita Duty:** No, we didn't.

19 **Mark Swartz:** Okay. So, we need to do that. We need to take that person off of Table 1, or  
20 no?

21 **Anita Duty:** We had revised it to remove Loeita Lambert and Stacy Martin because they were  
22 actually not unclaimed. It was in transit.

23 **Mark Swartz:** Okay.

24 **Anita Duty:** And, now that it's been decided that unclaimed people should also be removed,  
25 then we'll have to do another revision.

26 **Mark Swartz:** Okay. So, there were some people that were in transit that we removed from...?

27 **Anita Duty:** In advance because we knew that that wasn't...

28 **Mark Swartz:** Right. From Table 1, but we need to remove Mickey Hale from Table 1, too.



1 **Anita Duty:** Yes.

2 **Mark Swartz:** Then, we will have it squared away.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, you were back and forth with Sarah about the other two people, in advance,  
5 so everybody knew that was happening.

6 **Anita Duty:** Right.

7 **Mark Swartz:** Okay.

8 **Anita Duty:** That's already been uploaded. Now, we've got to revise the revision.

9 **Mark Swartz:** Right. I believe that's it.

10 **Donnie Ratliff:** Any questions from the Board? [No response] Anything else? [No response]  
11 So, we would ask for a motion, removing Mickey Hale from Tract 1D. Is that the only one he's  
12 in?

13 **Anita Duty:** I don't know.

14 **Donnie Ratliff:** I think that's the only one he's on, 1D. Do we have a motion?

15 **Donnie Rife:** Motion made for approval, Mr. Chair.

16 **Donnie Ratliff:** And, that motion includes removing Mickey Hale from...

17 **Donnie Rife:** Table 1.

18 **Bill Harris:** I'll second that.

19 **Donnie Ratliff:** I have a motion and a second. Any discussion? [No response] All those in  
20 favor, say yes.

21 **Board:** Yes.

22 **Donnie Ratliff:** Opposed, no.

23 **Bradley Lambert:** Abstain.

24 **Donnie Ratliff:** One abstention. Mr. Lambert.

25 **Bradley Lambert:** I want to suggest that, since we've got several more items to go through, that  
26 we go ahead and take a 30-minute lunch and let's get back in 30 minutes.

**Item Number 12**

**Bradley Lambert:** We'll call this back to order, this afternoon. We're going to begin with Petition Number 12, on the agenda. It's a petition from CNX Gas Company, LLC, for the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 106G, 106I, 106J, 106K, 120B, and 123A, as depicted upon the annexed table. This is Docket Number VGOB-98-1117-0697. We've got two, separate docket numbers.

**Anita Duty:** One is the sealed gob and one is the actual, underlying, unit.

**Bradley Lambert:** So, are we combining two docket items?

**Rick Cooper:** So, this is actually a different type of gob. Maybe, Anita can explain it.

**Anita Duty:** It's a panel.

**Rick Cooper:** So, used to do one paneled, sealed gob. So, it's actually both.

**Bradley Lambert:** So, are we hearing two docket items, under this one?

**Anita Duty:** No, the one docket number goes with the sealed gob. The other docket number goes with the SLW11.

**Bradley Lambert:** I understand that, but are we calling two docket items?

**Anita Duty:** No, 697 has nothing to do with it.

**Bradley Lambert:** 697 has nothing to do with it.

**Anita Duty:** 697 is the sealed gob docket number.

**Mark Swartz:** Which we don't need, today.

**Bradley Lambert:** Which we're not calling, right?

**Mark Swartz:** Correct. We're not calling it.

**Bradley Lambert:** So, we're calling Docket Item VGOB-92-0818-0248-02.

**Mark Swartz:** Correct.

**Bradley Lambert:** All parties wishing to testify please come forward.

**Mark Swartz:** Mark Swartz and Anita Duty.

**Bradley Lambert:** You may proceed, Mr. Swartz.

1 **Mark Swartz:** Thank you. Anita, this is Docket Item Number 12. Could you state your name  
2 for us?

3 **Anita Duty:** Anita Duty.

4 **Mark Swartz:** Are you here on behalf of the petitioner, CNX Gas Company, LLC?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, this is a request for disbursement from SLW11?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And, in addition to that, a request to be able to pay certain people, going  
9 forward, directly, and for a dismissal, with regard to some coal owners?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And, the reasons we are here is that we have resolved some heirship issues,  
12 which allows us to make some payments. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Have you prepared a Table 1, with regard to this petition?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** That is Pages 8 and 9 of the PDF, I think.

17 **Anita Duty:** It is.

18 **Mark Swartz:** It's, obviously, two pages and pertains to several tracts. If this petition is  
19 granted, there will no longer be an escrow requirement, so that will actually pay out the entire  
20 account.

21 **Anita Duty:** Correct.

22 **Mark Swartz:** With regard to Table 1, have you identified all the tracts that this pertains to?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Have you provided a name of a person or a company, to whom or to which, all  
25 of the disbursements should be made?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** For each person or company identified, have you provided a mailing address?

1    **Anita Duty:** Yes.

2    **Mark Swartz:** Then, in the second column from the right-hand side of Table 1, have you stated  
3    a percentage for each person or company?

4    **Anita Duty:** We have.

5    **Mark Swartz:** And the Board order should direct the Escrow Agent to use that percentage,  
6    apply it to the balance on hand at the time the disbursement is made, and that will generate the  
7    dollar amount that should be paid out?

8    **Anita Duty:** Yes.

9    **Mark Swartz:** You provided a revised Exhibit E, showing no future escrow requirement?

10   **Anita Duty:** Yes.

11   **Mark Swartz:** A revised EE, that shows how payments will be made, going forward?

12   **Anita Duty:** Yes.

13   **Mark Swartz:** And, you're requesting authorization to make those payments, directly, rather  
14   than escrow?

15   **Anita Duty:** We are.

16   **Mark Swartz:** We have a certification of notice and it looks like everybody got their mail.

17   **Anita Duty:** Yes.

18   **Mark Swartz:** And, we have an Exhibit J, which is a reconciliation. Correct?

19   **Anita Duty:** It is.

20   **Mark Swartz:** Did you attempt to identify all royalty checks that the operator issued?

21   **Anita Duty:** Yes.

22   **Mark Swartz:** Then, did you look for a corresponding deposit?

23   **Anita Duty:** Yes.

24   **Mark Swartz:** Did you find one?

25   **Anita Duty:** We did.

26   **Mark Swartz:** Did you try to estimate your amount that you would expect to see on deposit and  
27   compare that to the June 2016 First Bank and Trust balance?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** When you made the comparison, there was a difference?

3 **Anita Duty:** The bank is showing \$30.31 more than we do.

4 **Mark Swartz:** Then, you've got the next exhibit after the reconciliation is just a recap of what's  
5 contributing?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** I believe that's it.

8 **Bradley Lambert:** Any questions from the Board?

9 **Donnie Ratliff:** Mr. Chairman?

10 **Bradley Lambert:** Mr. Ratliff.

11 **Donnie Ratliff:** It may be the sealed gob unit, Mr. Swartz, but on your relief sought, you've  
12 listed 106G, 106I, 106J and 106K, but on Table 1, at the bottom, are a totally different set of  
13 wells.

14 **Anita Duty:** The 106G, those are tract numbers.

15 **Donnie Ratliff:** Okay.

16 **Anita Duty:** Those SLW's were weird. They were numbered weird.

17 **Donnie Ratliff:** I bet.

18 **Bradley Lambert:** Any other questions from the Board? [No response] Anything further, Mr.  
19 Swartz?

20 **Mark Swartz:** No.

21 **Bradley Lambert:** Do I have a motion?

22 **Donnie Rife:** Motion made for approval, Mr. Chair.

23 **Bill Harris:** Second.

24 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
25 favor signify by saying yes.

26 **Board:** Yes.

27 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That's approved.

**Item Number 13**

**Bradley Lambert:** We're calling Docket Item Number 13. A petition from CNX Gas Company, LLC, for (1) disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 3, as depicted upon the annexed table; (2) authorization to begin paying royalties directly to the parties listed in the petition; and (3) dismissal of the coal owners listed in the petition. This is Docket Number VGOB-93-0622-0380-01. All parties wishing to testify please come forward.

**Mark Swartz:** Mark Swartz and Anita Duty.

**Bradley Lambert:** You may proceed, Mr. Swartz.

**Mark Swartz:** State your name for us, Anita.

**Anita Duty:** Anita Duty.

**Mark Swartz:** Are you here, on behalf of CNX Gas Company, LLC, with regard to this petition for disbursement?

**Anita Duty:** Yes.

**Mark Swartz:** We are asking for a disbursement, authorization for direct pay, going forward, and we're addressing some coal owner claims. Correct?

**Anita Duty:** Yes.

**Mark Swartz:** And, the reasons for this petition are summarized in paragraph 5. First of all, we've got some split agreements. Right?

**Anita Duty:** Yes.

**Mark Swartz:** Then, we've got some folks that are now entitled to payment, under the House Bill. Lastly, we've got some folks that we've given the 45-day notice to, as coal claimants. Correct?

**Anita Duty:** Yes.

**Mark Swartz:** Have you prepared a Table 1?

**Anita Duty:** Yes.

**Mark Swartz:** In Table 1, we're looking to make a disbursement from Tract 3. Correct?

**Anita Duty:** Yes.

1 **Mark Swartz:** And, this disbursement would be a partial disbursement from the escrow  
2 account?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** With regard to the people that you are asking the Board make disbursements to,  
5 have you identified them all, by name, and provided a mailing address?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** In Table 1, the second column from the right-hand side, have you given a  
8 percentage for each person or company?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And, the Escrow Agent should be directed to use that percentage, apply it to the  
11 balance on hand at the time the disbursement is made, and that will generate the amount of the  
12 check to be cut?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Have you provided a revised Exhibit E, with regard to the escrow requirements,  
15 going forward?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And, likewise, have you provided a revised Exhibit EE, with regard to the  
18 payment status, going forward?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** With regard to folks receiving disbursements under this petition, are you asking  
21 to be able to pay them directly, in the future?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Have you provided an affidavit of mailing and set forth the status of that?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** It looks like everybody got their mail.

26 **Anita Duty:** Yes.

27 **Mark Swartz:** With regard to Exhibit J, you've done a reconciliation.

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Were you able to find a deposit for every royalty check?

2 **Anita Duty:** We did.

3 **Mark Swartz:** When you compared your calculated balance to the bank's July 31, 2016,  
4 balance, was there a difference?

5 **Anita Duty:** The bank is showing \$112.79 more.

6 **Mark Swartz:** Did you give notice to any coal owners?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** It was Harrison-Wyatt and that company signed for the mail?

9 **Anita Duty:** They did.

10 **Mark Swartz:** This is another instance where Harrison-Wyatt had some split agreements, but  
11 not all.

12 **Anita Duty:** Correct.

13 **Mark Swartz:** So, we've got some payments to them, going forward, and we've got some  
14 dismissals, as well.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay. I believe that's all I have, Mr. Chairman.

17 **Bradley Lambert:** Any questions from the Board? [No response] Mr. Swartz, help me  
18 understand something. I know you testified that you were dismissing a coal owner. I assume  
19 that's H-W Financial, LLC.

20 **Mark Swartz:** Well, yes and no. I think they're going to receive.

21 **Bradley Lambert:** It looks like they're receiving a pretty large sum of money.

22 **Mark Swartz:** This is the successor to Harrison-Wyatt. Harrison-Wyatt attempted, as did a lot  
23 of companies, to get split agreements, but wasn't able to get them all the time. So, this is a  
24 situation where they're getting paid under this disbursement request, on situations where they  
25 were able to obtain split agreements. But, to the extent they weren't, the gas claimants are being  
26 paid 100% and they're being cut out. We're paying them forward and we're also dismissing  
27 them, to the extent they didn't get a split agreement. So, they're being treated two ways, here.

28 **Bradley Lambert:** Okay.

29 **Mark Swartz:** This keeps coming up. You'll see a lot of this. That's the complicated answer.



1 **Bradley Lambert:** Thank you. Any other questions from the Board? [No response] Anything  
2 further, Mr. Swartz?

3 **Mark Swartz:** No.

4 **Bradley Lambert:** Do I have a motion?

5 **Donnie Rife:** Motion made for approval, Mr. Chair.

6 **Bill Harris:** Second.

7 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
8 response] All in favor signify by saying yes.

9 **Board:** Yes.

10 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That one is approved.

11 **Mark Swartz:** Thank you.

12 **Item Number 14**

13 **Bradley Lambert:** We're calling Docket Item Number 14. A petition from CNX Gas  
14 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
15 Board's Escrow Agent, attributable to a portion of Tract 1E, as depicted upon the annexed table;  
16 (2) authorization to begin paying royalties directly to the parties listed in the petition; and (3)  
17 dismissal of coal owner. All parties wishing to testify please come forward.

18 **Mark Swartz:** Mark Swartz and Anita Duty.

19 **Bradley Lambert:** You may proceed, Mr. Swartz.

20 **Donnie Rife:** Did you say "14," Mr. Chair?

21 **Bradley Lambert:** 14.

22 **Mark Swartz:** Anita, state your name.

23 **Anita Duty:** Anita Duty.

24 **Mark Swartz:** Are you here, today, on behalf of the petitioner, CNX Gas Company, LLC?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** This is a petition to do three things: obtain a disbursement, obtain authorization  
27 for some direct payments, going forward, and also to address dismissal of some coal owners.

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, the reason or basis for this request is listed in paragraph 5. We have some  
3 folks that are entitled to payment, under the House Bill. Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, then we've given some notices and we're seeking coal owner dismissals  
6 because of failure to come forward, with evidence of either an agreement or a case.

7 **Anita Duty:** Correct.

8 **Mark Swartz:** Okay. Let's go to Table 1, first. We've got a one-page Table 1 and we're  
9 looking at a partial disbursement, I think?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And, this is coming from Tract 1E.

12 **Anita Duty:** It is.

13 **Mark Swartz:** With regard to the people that we want to receive a disbursement, have you  
14 listed every person or company, by name, on Table 1?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Have you provided a mailing address for everybody?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** In the second column from the right-hand side of Table 1, have you provided a  
19 percentage that the Escrow Agent should use to apply to the balance on hand, to generate a dollar  
20 amount that should be paid to each person?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Then, we've got a revised Exhibit E, which would reflect the escrow  
23 requirements, after these disbursements are made?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Then, we've done the same for Exhibit EE, which would reflect who is to be  
26 paid and how people are to be paid, after the escrow disbursement.

27 **Anita Duty:** Yes.

1 **Mark Swartz:** We've got an affidavit of mailing. It looks like you re-mailed to some people.  
2 Was that successful?

3 **Anita Duty:** I believe so.

4 **Mark Swartz:** So, you got delivered to Jodi Dixon, on what date?

5 **Anita Duty:** September 7.

6 **Mark Swartz:** Okay. Then, with regard to Curtis Wade?

7 **Anita Duty:** Delivered September 7

8 **Mark Swartz:** Is that attached to a supplement filing or do you need to upload that?

9 **Anita Duty:** No.

10 **Mark Swartz:** It's a supplemental filing?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay. So, you caught those two people and you filed it.

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Okay. So, we don't need to extract anybody from Table 1?

15 **Anita Duty:** No.

16 **Bradley Lambert:** Let me ask a question about that. I know what we have in our files for  
17 Curtis Wade, says, "No authorized recipient available."

18 **Anita Duty:** We re-mailed it. Can you check, Sarah, and make sure? I think we uploaded that  
19 one, back on the 8th. We had to do a supplemental mailing because it came back returned, so we  
20 re-mailed.

21 **Sarah Gilmer:** There are several that you changed for that.

22 **Bradley Lambert:** And, Jodi Dixon? Same way?

23 **Anita Duty:** Yes. They've got the copies in the file. I can have her load it, if you don't want to  
24 see the...

25 **Rick Cooper:** Do you see those, Ms. Gilmer?

26 **Mark Swartz:** Anita filed a supplemental affidavit, which should be in the system, once it  
27 works, on September 8th, that updated the results of the.... You'll notice on yours, it says, "Re-

1 mailed." It should say, on the right-hand, on your certification of notice. After those people,  
2 does it show, "re-mailed," outside of the margin?

3 **Sarah Gilmer:** Yes, we do have those.

4 **Mark Swartz:** So, that came in? So, we re-mailed it. They got the mail. We filed a  
5 supplemental that we've loaded and she's acknowledged that you have it. So, we got those  
6 people on a second mailing.

7 **Bradley Lambert:** For Dixon and Wade?

8 **Sarah Gilmer:** Jodi Dixon and Curtis Wade.

9 **Bradley Lambert:** Okay.

10 **Mark Swartz:** So, ultimately, we got everybody.

11 **Anita Duty:** Yes. If we catch it quick enough, we try to do that.

12 **Mark Swartz:** Then, on Exhibit J, a reconciliation?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Did you look for all of your royalty checks and, then, look for a corresponding  
15 deposit?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Were you able to match every check to a deposit?

18 **Anita Duty:** No, there's a deposit missing for \$530.90, on January 25, 2000, and a deposit for  
19 \$1,288.40, missing on April 25, 2001.

20 **Mark Swartz:** And, because those are so old, you haven't been able to locate any kind of back-  
21 up that would allow you to solve those issues. Correct?

22 **Anita Duty:** Well, that would be more the bank trying to find it.

23 **Mark Swartz:** I understand, but you haven't been able to?

24 **Anita Duty:** No.

25 **Bradley Lambert:** But, you have record of a deposit, just no record of the bank showing it.

26 **Anita Duty:** Those two are missing from the bank's side.

27 **Mark Swartz:** Right. Correct. Just, by contrast, we have a similar problem at 15, but those  
28 deposits that we can't account for are much more recent and we're going to ask you to continue

1 15, so we can go look for them. But, because these are 15-years-old, we'd like to move forward  
2 with this. We're bringing that to your attention. Then, we've got a supplemental affidavit of  
3 mailing, with regard to the coal owners, here.

4 **Anita Duty:** Yes.

5 **Mark Swartz:** It looks like Hurt-McGuire signed for this one.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** We've got a dismissal request, with regard to them. Then, when you did your  
8 math, taking into consideration the missing deposits, you did come up with a difference between  
9 your estimated balance and the First Bank and Trust balance, as of April 2016. Correct?

10 **Anita Duty:** Correct.

11 **Mark Swartz:** I would like to ask you about that. What's the difference?

12 **Anita Duty:** Our total was showing \$959.13 more than the bank.

13 **Mark Swartz:** Right, and which is, obviously, the biggest contributing factor is the two checks  
14 that you.

15 **Anita Duty:** Yes. That was, approximately, \$1,800.

16 **Mark Swartz:** Right. Two checks that didn't find their way in. I think that's it, Mr. Chairman.

17 **Bradley Lambert:** Any questions from the Board? [No response] Anything else, Mr. Swartz?

18 **Mark Swartz:** No.

19 **Bradley Lambert:** Do I have a motion?

20 **Donnie Rife:** Motion made for approval, Mr. Chair.

21 **Bill Harris:** Second.

22 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
23 favor signify by saying yes.

24 **Board:** Yes.

25 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

1 **Item Number 15**

2 **Mark Swartz:** As I indicated, we would like to continue 15, because we've got some  
3 reconciliation issues that we might be able to work with the bank and Mr. Cooper's office, to  
4 resolve.

5 **Bradley Lambert:** November? December?

6 **Mark Swartz:** That would be good.

7 **Anita Duty:** I already had spoken to Jody about it, before she left. I'll be emailing her.

8 **Bradley Lambert:** So, Docket Item VGOB-98-0324-0636-03 will be continued until  
9 November.

10 **Mark Swartz:** Thank you.

11 **Item Number 16**

12 **Bradley Lambert:** We're calling Docket Item Number 16. A petition from CNX Gas  
13 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
14 Board's Escrow Agent, attributable to Tracts 1A, 1B, 2A, 2B, a portion of 1C & 2D, as depicted  
15 upon the annexed table; (2) authorization to begin paying royalties directly to the parties listed in  
16 the petition; and (3) dismissal of oil and gas owners. All parties wishing to testify please come  
17 forward.

18 **Mark Swartz:** Mark Swartz and Anita Duty.

19 **Bradley Lambert:** You may proceed, Mr. Swartz.

20 **Mark Swartz:** Anita, state your name for us.

21 **Anita Duty:** Anita Duty.

22 **Mark Swartz:** Are you here on behalf of CNX Gas Company, today?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** With regard to this petition for requesting a disbursement and authorization for  
25 direct pay and addressing coal owner dismissals?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** The basis for the request are actually two. On the one hand, we have a transfer  
28 of some interest and some royalty split agreements. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Then, on the other hand, we also have the effect of the House Bill, benefitting  
3 some gas owners. Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Then, lastly, we'll address coal owner dismissals.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay. If we go to Table 1, there's a fairly extensive list of folks, here. This is a  
8 percentage table. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And, it pertains to multiple tracts?

11 **Anita Duty:** It does.

12 **Mark Swartz:** And, is it a partial disbursement from escrow or does it close the account?

13 **Anita Duty:** Partial.

14 **Mark Swartz:** Have you identified each tract that is at issue, on Table 1?

15 **Anita Duty:** We have.

16 **Mark Swartz:** And, have you identified, by name, each person or company that we are  
17 proposing should receive a disbursement from the escrow account?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, have you provided the Board and the bank with an address for each person  
20 or company?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** In the second column from the right-hand margin, on Table 1, have you given a  
23 percentage for each person or company?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, should the Escrow Agent be directed to use that percentage, multiply it by  
26 the balance on hand when the checks are cut, to generate a dollar amount for each person?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And, you've provided an Exhibit E, which would reflect the status in the escrow  
2 account, after the disbursements?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Likewise, you've given us a EE, which shows the on-pay status, going forward.

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And reflects that we'll be able to pay some additional people, directly?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** You've got three unclaimed and one refused. Right?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** I guess, based on extensive discussion we had, this morning, we would like to  
11 treat the refusal as someone who affirmed they could have had notice, but chose not to avail  
12 himself of it. And, we would like to move forward with Rodney Boyd, but with regard to Jody  
13 Baldwin, Sandra Street and James Vance, those people were unclaimed and we would need to, to  
14 the extent they're on to be paid, on Table 1, we would have to remove them. Correct?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Then, if we go to Exhibit J, you've done a reconciliation, again.

17 **Anita Duty:** Yes.

18 **Mark Swartz:** When you identified all the checks and looked for deposits, were you able to  
19 find one for each check? It looks like there was one that was missing, but they caught it the next  
20 month. Anything else?

21 **Anita Duty:** I think we're good.

22 **Mark Swartz:** Then, you did your calculation, with regard to what you thought the balance  
23 ought to be?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, you compared that to the July 31, 2016, First Bank and Trust balance.  
26 There was a difference of what amount?

27 **Anita Duty:** First Bank and Trust was showing \$9.20 more.

28 **Mark Swartz:** Except, if we look at the math, we know that's something wrong, there.



1    **Anita Duty:** That's right.

2    **Mark Swartz:** Okay. So, actually, if we do the math...

3    **Anita Duty:** \$33.38.

4    **Mark Swartz:** For some reason or other, the difference is \$9.20 in the exhibit, but it's wrong.  
5    Correct?

6    **Anita Duty:** Yes. We will correct that.

7    **Mark Swartz:** Then, we have a supplemental affidavit, with regard to coal owners. Correct?

8    **Anita Duty:** Yes.

9    **Mark Swartz:** Again, we've got a coal owner that has some split agreements, with regard to  
10   some of its coal interest, but not all.

11   **Anita Duty:** Correct.

12   **Mark Swartz:** So, Hugh McRae is going to be receiving some payments, going forward, but  
13   also going to be dismissed, as a coal claimant, in some other instances, where it doesn't have  
14   either a lawsuit or a split agreement?

15   **Anita Duty:** Yes.

16   **Mark Swartz:** This is a situation where I think we may have dismissed some of the coal  
17   owners, already, but if not...

18   **Anita Duty:** Correct.

19   **Mark Swartz:** Because we mailed to them so long ago. This is a situation where we've notified  
20   them, given them 45-day notice and haven't gotten a response, except to the extent that Hugh  
21   McRae had some agreements.

22   **Anita Duty:** Correct.

23   **Mark Swartz:** That's all I have, Mr. Chairman.

24   **Bradley Lambert:** Any questions from the Board?

25   **Sarah Gilmer:** I have something to say. I don't think this would apply to James Vance,  
26   actually. He's not on this petition. He was just in that list.

27   **Anita Duty:** He's one of the dismissals.

28   **Sarah Gilmer:** Okay.

1 **Bradley Lambert:** Any other questions? [No response] Anything further, Mr. Swartz?

2 **Mark Swartz:** Just to reiterate what Sarah said. To the extent that those people were dismissal  
3 people, as opposed to payment people, they don't need to be.... They would only be extracted  
4 from her list if they were unclaimed and on Table 1. Otherwise, they're dismissals, on B2.  
5 Right?

6 **Anita Duty:** Right.

7 **Mark Swartz:** Okay.

8 **Rick Cooper:** Pardon, Ms. Gilmer?

9 **Sarah Gilmer:** I still didn't see him on there, being dismissed.

10 **Mark Swartz:** I'm agreeing with you.

11 **Sarah Gilmer:** Okay. It doesn't matter. I think it's just the same affidavit, the same list of  
12 people.

13 **Mark Swartz:** So, there are actually people on there that didn't....

14 **Anita Duty:** We mailed them together. I see what you're saying.

15 **Bradley Lambert:** Do I have a motion?

16 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

17 **Bill Harris:** Second.

18 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No response]  
19 All in favor signify by saying yes.

20 **Board:** Yes.

21 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

22 **Item Number 17**

23 **Bradley Lambert:** We're calling Docket Item Number 17. A petition from CNX Gas  
24 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
25 Board's Escrow Agent, attributable to Tract 2, as depicted upon the annexed table; (2)  
26 authorization to begin paying royalties directly to the parties listed in the petition; and (3)  
27 dismissal of coal owner. Docket Number VGOB-01-0116-0853-02. All parties wishing to  
28 testify please come forward.

1    **Mark Swartz:** Mark Swartz and Anita Duty.

2    **Bradley Lambert:** You may proceed, Mr. Swartz.

3    **Mark Swartz:** Anita, state your name.

4    **Anita Duty:** Anita Duty.

5    **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC, with regard to this  
6    disbursement petition?

7    **Anita Duty:** Yes.

8    **Mark Swartz:** And, it includes disbursement, authorization for direct pay and to address  
9    dismissals of coal owners. Right?

10   **Anita Duty:** Yes.

11   **Mark Swartz:** We're going to see a couple more cases like this, as we work through the docket,  
12   but this is a situation where H.C. Bostic Coal Company won a court case and is entitled to 100%  
13   of some CBM royalties, under that decision.

14   **Anita Duty:** Yes.

15   **Mark Swartz:** And, you've attached a copy of that decision with the exhibits, here.

16   **Anita Duty:** Yes.

17   **Mark Swartz:** Then, we also have a situation where the same company is a gas claimant in  
18   some tracts that weren't, necessarily, addressed by the litigation and would be entitled, under the  
19   House Bill, to payment.

20   **Anita Duty:** Yes.

21   **Mark Swartz:** Then, we've got 45-day notices to some coal claimants. If you come through,  
22   we have a fairly direct Table 1.

23   **Anita Duty:** We do.

24   **Mark Swartz:** It pertains to Tract 2 and provides that H.C. Bostic Coal Company, at the address  
25   stated, would receive 100% of the escrow balance.

26   **Anita Duty:** Yes.

27   **Mark Swartz:** And, you have provided a revised Exhibit E, which shows that, if this petition is  
28   approved, we're not going to require escrow for this unit, anymore.

1    **Anita Duty:** Correct.

2    **Mark Swartz:** And, an Exhibit EE, providing how people are to be paid, going forward.

3    **Anita Duty:** Yes.

4    **Mark Swartz:** We've got an affidavit of mailing. It shows the mail was accepted by Bostic and  
5    Bostic's lawyer, Shea Cook. Right?

6    **Anita Duty:** Correct.

7    **Mark Swartz:** We've got a reconciliation. Were you able to find every royalty check and a  
8    corresponding deposit, for that check?

9    **Anita Duty:** Yes.

10   **Mark Swartz:** When you compared what you thought would be in the escrow account to the  
11   July 31, 2016, balance, was there a difference?

12   **Anita Duty:** The bank was showing \$78.04 more.

13   **Mark Swartz:** And Buckhorn Coal needs to be dismissed and they got their notice and we have  
14   proof of notice.

15   **Anita Duty:** We put it in there, but we really didn't need to because the court order took care of  
16   it.

17   **Mark Swartz:** Okay. There were some gas claimants, too, so we probably did need it.

18   **Anita Duty:** Okay.

19   **Mark Swartz:** So, to the extent the court order applied to the tract, you're right, but there was  
20   some additional interest. Lastly, we have an affidavit, signed by the President of H.C. Bostic  
21   Coal Company, authorizing the Board to pay. I'll just quote. "Terrence Shea Cook is my  
22   authorized attorney-in-fact, to receive for distribution on my behalf, all funds held in escrow by  
23   the DGO." Correct?

24   **Anita Duty:** Yes.

25   **Mark Swartz:** That's what it says.

26   **Anita Duty:** Yes.

27   **Mark Swartz:** That's all I have.

28   **Bradley Lambert:** Any questions from the Board? [No response] Anything further, Mr.  
29   Swartz?

1 **Mark Swartz:** No.

2 **Bradley Lambert:** Do I have a motion?

3 **Donnie Rife:** Motion made for approval, Mr. Chair.

4 **Bill Harris:** Second.

5 **Bradley Lambert:** I have a motion and I have a second. Any further discussion?

6 **Donnie Ratliff:** So, a check will be made to Bostic Coal, mailed to Shea Cook.

7 **Anita Duty:** Yes.

8 **Bradley Lambert:** I have a motion and I have a second. I thought I had a second, didn't I?

9 **Bill Harris:** I seconded, I believe.

10 **Bradley Lambert:** All in favor signify by saying yes. We did that, already, so that one is

11 approved.

12 **Mary Quillen:** Yes.

13 **Item Numbers 18, 19, 20 and 22**

14 **Mark Swartz:** Chairman, if you look at 18, 19 and 20, they're the same Bostic. And 22 is the

15 same. I don't know if you want to combine 18, 19, 20 and 22.

16 **Bradley Lambert:** 18, 19, 20 and 22. Okay. We'll call those, then. We're calling Docket Item

17 Number 18, which is Docket Number VGOB-01-0116-0854-02. And, we're calling Docket

18 Number 19, which is VGOB-01-0116-0856-02. And, Docket Item Number 20, which is Docket

19 Number VGOB-01-0116-0857-01. And, we're calling Docket Item 22, which is Docket Number

20 VGOB-01-0821-0917-01. All parties wishing to testify please come forward.

21 **Mark Swartz:** Mark Swartz and Anita Duty.

22 **Bradley Lambert:** You may proceed, Mr. Swartz.

23 **Mark Swartz:** Thank you. Anita, would you state your name for us, please?

24 **Anita Duty:** Anita Duty.

25 **Mark Swartz:** Are you here, on behalf of the petitioner, CNX Gas Company, LLC?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And, this collection of petitions that we're calling, together, are all petitions for  
2 disbursements?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, they're all predicated, basically, on the same court case and, then, to the  
5 extent that House Bill 2058 supplements the ability of the Bostic Company to receive funds, also  
6 predicated on that basis.

7 **Anita Duty:** Yes.

8 **Mark Swartz:** In each instance, you have attached a copy of the order?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And, you've attached a copy of the President of the H.C. Bostic Company's  
11 affidavit, with regard to these four cases and, also, his request that the checks be made payable to  
12 H.C. Bostic, but mailed to their lawyer, Shea Cook. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Starting with AV113, you have a Table 1, that would require the escrow account  
15 to be disbursed, in full, to H.C. Bostic Company?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And, you've revised the Exhibit E, to show a zero out of the escrow?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, you filed an appropriate EE, with regard to payments, going forward?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** You have filed your proof of mailing to Bostic and their lawyer?

22 **Anita Duty:** We have.

23 **Mark Swartz:** And, you've done a reconciliation. Were you able to find a deposit for every  
24 royalty check?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And, was there a bit of a difference, when you compared your calculation?

27 **Anita Duty:** I take that back.

28 **Mark Swartz:** Okay.

1 **Anita Duty:** On February 28, 2015, there was a deposit of \$63.83 that was not shown on the  
2 bank's side.

3 **Mark Swartz:** Tell me that, again.

4 **Anita Duty:** On February 28, 2015.... I'm sorry. It's showing as a correction, in the following  
5 month, so everything is good.

6 **Mark Swartz:** So, you caught it.

7 **Anita Duty:** Everything is good. Sorry.

8 **Mark Swartz:** Okay. At least, in terms of the royalty payments that the operator sent in, there  
9 is a corresponding deposit?

10 **Anita Duty:** There is.

11 **Mark Swartz:** When you did your math, you came up with a \$52.13 difference?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** The difference is that the bank shows a little bit more than you did.

14 **Anita Duty:** They do.

15 **Mark Swartz:** You've got a certification of notice, again, to Buckhorn Coal and their interest is,  
16 of course, addressed in the judgment, but also to the extent they're in conflict, this addresses that.

17 **Anita Duty:** Yes.

18 **Mark Swartz:** That's all I have, on 18. If we go to Docket Item 19....

19 **Bradley Lambert:** Any questions on anything, before we move to 19? Any questions from the  
20 Board? [No response] You may continue, Mr. Swartz.

21 **Mark Swartz:** Thank you. If we go to 19, we're talking about AW112?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** It's, basically, an identical situation?

24 **Anita Duty:** It is.

25 **Mark Swartz:** Except the amount of money in the account is different.

26 **Anita Duty:** Yes.

1 **Mark Swartz:** We, again, have a Table 1, showing 100% of the money, that the Escrow Agent  
2 should disburse 100% of the money in this escrow account to.... I take that back. No, this does  
3 not zero it out, does it?

4 **Anita Duty:** No.

5 **Mark Swartz:** Tract 1, Bostic gets 52.5012% of the balance on hand in the escrow account, at  
6 the time the disbursement is made.

7 **Anita Duty:** Correct.

8 **Mark Swartz:** Okay. As a result of the judgment that we've been talking about?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, we've got an Exhibit A, going forward, because there is still going to be  
11 some money on deposit, with regard to AW112.

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And, you've got a revised Exhibit EE, showing how the payments are to be  
14 made, going forward?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** You've got an affidavit of mailing, showing again, receipt by H.C. Bostic Coal  
17 Company and their lawyer, Shea Cook. We have, then, an Exhibit J. When you looked for  
18 royalty checks, having been deposited, did you find a deposit for each one?

19 **Anita Duty:** We did.

20 **Mark Swartz:** When you compared your calculations to the bank balance, was there a  
21 difference?

22 **Anita Duty:** The bank was showing \$20.41 more.

23 **Mark Swartz:** You've got a coal owner affidavit. Again, Buckhorn? Same situation?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** They signed for that mail. Again, we've got an affidavit, on behalf of the coal  
26 company, requesting the check be mailed to their lawyer?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** That's all I have on 19, Mr. Chairman.



1 **Bradley Lambert:** Any questions from the Board, on 19? [No response] You may continue,  
2 Mr. Swartz.

3 **Mark Swartz:** Thank you. 20 pertains to AW113. Right, Anita?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Once again, we have H.C. Bostic Coal Company. Correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** They're receiving a disbursement, pertaining to Tract 1?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And, the Escrow Agent should take 59.4380% of the balance on hand, when the  
10 disbursement is being calculated. That will generate a dollar amount that should be, then, sent to  
11 H.C. Bostic Coal Company, in care of its lawyer, Shea Cook. Right?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** We've got a revised Exhibit E, with regard to future escrow and a revised  
14 Exhibit EE, with regard to future payments?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** You've got an affidavit of mailing. Once again, Bostic Company and Cook  
17 received their mail. We've got an Exhibit J. It looks like there was an issue, here, on the last  
18 page. If you could tell the Board what you found when you went looking at your royalty checks  
19 and deposits. What did you find?

20 **Anita Duty:** The deposit on February 28, 2015, of \$522.92 was incorrectly posted to AW113.  
21 It should have been credited to BC119. That correction was made, in January.

22 **Mark Swartz:** So, with that correction, as far as you can tell from the bank's records and your  
23 records, your royalty checks found it into the account, as a deposit?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, this one error needed to be corrected and has been?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** When you did your math and compared it to the July 31, 2016, First Bank and  
28 Trust balance, there was a difference of how much?

29 **Anita Duty:** The bank was showing \$231.95 less than our calculation.

1 **Bradley Lambert:** Can I ask a question about that? I noticed when you talk about that and you  
2 say the bank shows more, sometimes it shows a negative \$231.95 and you say that the bank  
3 shows more. Sometimes, there's not a negative and you say the bank shows more. Which way is  
4 it?

5 **Mark Swartz:** We had a whole team doing these. There is an explanation. We had many,  
6 many people, not just one person doing it. Clearly, some of them did it differently. I noticed the  
7 same thing, but they were done, in the past, when we were doing this big effort to the 453 units,  
8 in the book, that you've got. They were all doing it, then. So, they were doing it slightly  
9 differently. That's why. This was internal, our people. We had a team doing this.

10 **Anita Duty:** I think they always take the CNX balance and subtract the First Bank and Trust  
11 balance. So, depending on which way that turns out. Usually, if it's negative, it means that we  
12 show more and, if it's positive, they show more.

13 **Mark Swartz:** Usually, but not always.

14 **Paul Kugelman:** I think the Chairman is asking if the testimony reflect that, consistently, not so  
15 much that, if the bank shows more than it needs to be, that testimony needs to be the same for  
16 each time, regardless of what.... I'm not trying to be over-picky.

17 **Anita Duty:** So, do you want me to say the banks shows more or less or do you want me to say  
18 CNX shows more or less? How do you want me to ...?

19 **Bradley Lambert:** Sometimes, when there's a negative number, you say the bank shows more.  
20 Just now, on this one, you said the bank shows more, but there's no negative number in front of  
21 that.

22 **Anita Duty:** This time, we show more.

23 **Bradley Lambert:** But, you said the bank showed more.

24 **Anita Duty:** We show more. How do you want me to do it? Do you want...?

25 **Bradley Lambert:** I don't care. If there's a negative there...

26 **Anita Duty:** Do you want me to always say what the bank shows?

27 **Bradley Lambert:** No. What I'm saying is, whatever you want to testify, if there's a negative  
28 there, it's one way. If there's not a negative there, it's another way. We're mixing them up.

29 **Bill Harris:** I think, in that line that says difference, if we even have it in parentheses, bank  
30 shows more, or something. That difference is different with different...

31 **Sarah Gilmer:** Each company does...

1 **Bradley Lambert:** I know, but the Board needs to know, since this is evidence, before the  
2 Board, which way is it? Is it the company shows more or the bank shows more? We're hearing  
3 it mixed testimony.

4 **Anita Duty:** From now on, I'm always going to tell you what the bank's doing. Either the bank  
5 is going to be more or they're going to be less. I'm never going to say what CNX is doing.

6 **Mark Swartz:** That addresses your issue.

7 **Paul Kugelman:** It does. That's fine.

8 **Anita Duty:** It doesn't really matter what we calculate, anyway.

9 **Bradley Lambert:** It does.

10 **Anita Duty:** It depends on whether I'm going to tell you it's shorter.

11 **Bradley Lambert:** In that context, it does.

12 **Mary Quillen:** Well, it's the semantics of how a person conveys that. When the different  
13 people were doing those calculations....

14 **Bradley Lambert:** Well, in accounting, a negative number means we're in a deficit.

15 **Anita Duty:** I understand what you're saying.

16 **Bill Harris:** The reference should be what CNX has and, then, if it's negative, that we're below  
17 what the bank has? I'm just trying to define the difference.

18 **Anita Duty:** What we do is take.... We're not looking at what we sent in. We take what we've  
19 sent in, plus the interest, minus fees, whatever, and we're just doing a running balance, just  
20 mathematically. The bank does theirs. Sometimes, the bank doesn't always agree with us.

21 **Bill Harris:** I understand that.

22 **Anita Duty:** So, we're taking those two numbers and....

23 **Bill Harris:** The question is that, even though.... The problem is the representation of the  
24 difference, in red, sometimes that's a positive number. Sometimes, that's a negative number, but  
25 in both cases, sometimes the bank has shown more or less and it's sort of confusing.

26 **Anita Duty:** I understand, so what I'm saying is the ones that we've already filed, there's going  
27 to be a transition period where it's still going to be weird, like this. Going forward, anything new  
28 that we file, we're going to always say the difference. It's either going to be the bank's, plus or  
29 minus.

30 **Bradley Lambert:** Okay.

1 **Mark Swartz:** So, if it's a positive number, that means the bank has more. If it's a negative  
2 number, it means the bank has less than our comparison. Right?

3 **Anita Duty:** Yes. Correct. Going forward. There are still some that have been filed, in this  
4 meantime.

5 **Bradley Lambert:** Okay. Fair enough. Thank you.

6 **Mark Swartz:** We've got Buckhorn. We've got the same situation, again. That's it, on that.

7 **Bradley Lambert:** Okay. Any questions on this particular item? [No response] You may  
8 continue, Mr. Swartz.

9 **Mark Swartz:** That was 20, right?

10 **Bradley Lambert:** Yes.

11 **Mark Swartz:** Now, we're going to skip to 22, which is AY115. Anita tells me this is a Bostic  
12 disbursement, but not related to the court order. Let's look at it, since you called it.

13 **Anita Duty:** Let me make sure. Yes, it is.

14 **Mark Swartz:** No way! I got it right?

15 **Anita Duty:** You did. Sorry.

16 **Mark Swartz:** 22 pertains to Unit AY115, correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay. We've got, again, the Bostic court decision and we've got a Table 1. This  
19 is one where there's actually 100% of the escrow coming out. Correct?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** In this one, AY115, our petition is to ask that the Board direct the Escrow Agent  
22 to pay 100% of the balance in this account to H.C. Bostic Coal Company. We have filed an  
23 Exhibit E, a revised exhibit, showing that escrow will no longer be required. We filed an Exhibit  
24 EE, showing payments, going forward. We have an affidavit of mailing that shows that H.C.  
25 Bostic Coal and Cook got notice. We have an Exhibit J. It looks like there are no changes to  
26 that, correct?

27 **Anita Duty:** Correct.

28 **Mark Swartz:** It looks like, consequently, you were able to find a deposit for every royalty  
29 check?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** When you did your math, there was a \$.28 difference?

3 **Anita Duty:** Yes. The bank is showing \$.28 more.

4 **Mark Swartz:** We've got a negative number in front of it.

5 **Anita Duty:** Whenever the bank has more, it's always negative.

6 **Mark Swartz:** So, we're going to fix that. Aren't we?

7 **Anita Duty:** Yes, we are.

8 **Mark Swartz:** We're going to get on the same page, here. Then, we've got a copy of the final  
9 order and I believe that's it.

10 **Bradley Lambert:** Any questions from the Board on Docket Item Number 22? [No response]  
11 Anything further, Mr. Swartz?

12 **Mark Swartz:** No. Thank you.

13 **Bradley Lambert:** Do I have a motion on Docket Items 18, 19, 20 and 22?

14 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

15 **Donnie Rife:** Second, Mr. Chairman.

16 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
17 response] All in favor signify by saying yes.

18 **Board:** Yes.

19 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That one is approved.

20 **Mark Swartz:** Thank you.

21 **Item Number 21**

22 **Bradley Lambert:** Now, we're calling Docket Item Number 21. A petition from CNX Gas  
23 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
24 Board's Escrow Agent, attributable to Tracts 2A, 3D, and a portion of 2B, as depicted upon the  
25 annexed table; (2) authorization to begin paying royalties directly to the parties listed in the  
26 petition; (3) dismissal of oil and gas owners listed in the petition; and (4) dismissal of coal  
27 owners. Docket Number VGOB-01-0320-0878-04. All parties wishing to testify please come  
28 forward.

1 **Mark Swartz:** Mark Swartz and Anita Duty.

2 **Bradley Lambert:** You may continue, Mr. Swartz.

3 **Mark Swartz:** Thank you. Anita, state your name for us.

4 **Anita Duty:** Anita Duty.

5 **Mark Swartz:** You're here, on behalf of CNX Gas Company, LLC, with regard to this petition  
6 for disbursement from escrow, pertaining to DD24. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And, you have indicated the reasons that we're here. We've got a sale of some  
9 interest, purchases and sale of some interest. Correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And, we have some royalty split agreements and we have the aftermath of House  
12 Bill 2058.

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And, we've got some coal claims to be dealt with.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** If we go to Table 1, we have a two-page table. Correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Pertaining to a couple of tracts?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** It looks like three tracts. Have you identified, on Table 1, by name, all  
21 companies or persons, who we are proposing receive a disbursement?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** For each person or company, have we given a mailing address and a percentage,  
24 in the second column from the right-hand side, that the Escrow Agent should use to calculate the  
25 dollar amount due, by multiplying that percentage times the balance on hand, when the  
26 disbursements are made?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And, there's still going to be an escrow requirement, going forward. You've  
2 given a revised Exhibit E, with regard to that?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, you have revised Exhibit EE, to indicate what the pay status, going  
5 forward, would be?

6 **Anita Duty:** We have.

7 **Mark Swartz:** We've got an affidavit of mailing and we've got, I'm thinking, this is the same  
8 Vance issue. Right?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** But, we do have Rodney Boyd refusing and, then, we've got three unclaimed.  
11 To the extent any of the unclaimed people, are on Table 1, they shouldn't be paid. Correct?

12 **Anita Duty:** Correct.

13 **Mark Swartz:** They may not be, but to the extent they are, they should not and we'll revise it, if  
14 necessary.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** With regard to Exhibit J, it looks like there were no corrections. Is that right?

17 **Anita Duty:** What do you mean?

18 **Mark Swartz:** Like unaccounted for deposits.

19 **Anita Duty:** Yes, there are.

20 **Mark Swartz:** Oh, there are. Okay. Let's get to those, then.

21 **Anita Duty:** December 31, 2003, the bank is showing a deposit of \$47.59 and we do not show  
22 that, that we made that deposit.

23 **Mark Swartz:** So, that was not from a check that we issued for a royalty.

24 **Anita Duty:** Right.

25 **Mark Swartz:** Okay.

26 **Anita Duty:** On August 25, 2006, we sent a check for \$305.96 and that is not showing, as being  
27 deposited. In September 2006, we're showing a check for \$314.23 and the bank is not showing

1 that deposit. In May 2015, we are showing that we sent \$60.73 and the bank is showing they  
2 received \$50.46. That's it.

3 **Mark Swartz:** In light of those observations, you did a calculation and you compared it to the  
4 bank balance, as of July 31, 2016?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, you're seeing a difference?

7 **Anita Duty:** The bank is showing \$200.91 more than our calculation.

8 **Mark Swartz:** Okay. That, obviously, part of that issue is...

9 **Anita Duty:** The deposit.

10 **Mark Swartz:** The deposits that you've just discussed.

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Looking at mailing the coal owners, everybody got their mail.

13 **Anita Duty:** Yes. You're talking about the coal owner dismissal. Sorry.

14 **Mark Swartz:** Right. I think that's all I have. Jody Baldwin is at the bottom of the first page  
15 and we're going to take her off. Right?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Then, we're going to leave Rodney on because he refused his mail. Right?

18 **Anita Duty:** Right.

19 **Mark Swartz:** Then, let's look for Sandra Street. She is on here and we need to remove her  
20 because hers was unclaimed. Okay? Those that we've just identified are the changes we need to  
21 make, with regard to Table 1.

22 **Rick Cooper:** Those have been revised, right, Ms. Ketron?

23 **Mark Swartz:** No, we need to do that.

24 **Bradley Lambert:** I'm going to, probably, ask some other questions. I hope it don't generate a  
25 whole, real long discussion. Ms. Duty, if you're showing \$800, in deposits, that the bank doesn't  
26 have accounted for, why do you think the bank is showing \$200 more than what your account is  
27 showing?

28 **Anita Duty:** The interest. Because, especially these older accounts...



1 **Bradley Lambert:** No. How can it be interest because the bank is showing \$200 more than  
2 what you're showing and you say you deposited almost, I think I counted it up, as you were  
3 rattling off, almost \$800 you deposited that the bank doesn't show a record of.

4 **Anita Duty:** I know, but those earlier accounts, they have quite a bit of interest on them. The  
5 gained quite a bit.

6 **Mary Quillen:** Those were in 2006, you said. Right?

7 **Mark Swartz:** No, this is way earlier. This is, like, 2002.

8 **Bradley Lambert:** 2004, I think, is what she testified.

9 **Anita Duty:** There are some of these, some months, that there's \$150 worth of interest added  
10 onto these, as they go.

11 **Bradley Lambert:** How large is the account?

12 **Anita Duty:** I'm sorry.

13 **Mark Swartz:** Give him an example.

14 **Anita Duty:** If you look around 2007, most of those are right around \$100. That one month was  
15 \$200. So, the interest kind of takes care of.... They put that in there and we didn't say we sent it.

16 **Bradley Lambert:** Total interest and fees. I'm seeing a lot of negative numbers in that column,  
17 as well.

18 **Anita Duty:** But, over the life of the account, \$3,400 has been added to it. So, when you offset  
19 what they didn't apply, to the interest and fees, you're still a positive.

20 **Bradley Lambert:** Okay.

21 **Mark Swartz:** Now, the more recent accounts, because the interest rate has been so bad, that  
22 could not have happened. This account looks like we were depositing money as early as  
23 February 2002.

24 **Anita Duty:** Even, like in 2006, you're talking about \$75 and \$80 a month. Then, you start  
25 getting to where you're almost \$100. Then, at one month, \$200. Then, I guess, in 2009, that's  
26 when the interest goes down to what we see, today. Some of these older ones, they have a large  
27 amount of interest. They just offset each other is the only explanation I can.

28 **Bradley Lambert:** In 2007, it's kind of high interest, too. Okay. Thank you. Any other  
29 questions from the Board?

1 **Donnie Ratliff:** Since you started this, Mr. Chairman.... Anita, do you have a total for Table 1,  
2 for the dollars that's on this, even though it's a date-certain, not up-to-date, do you have a total for  
3 that?

4 **Anita Duty:** Like the balance?

5 **Donnie Ratliff:** For Table 1. Of all the disbursements. I added it up and it's, like, \$18,422.  
6 When you go to your spreadsheet, that pretty well takes this balance of this account to zero.

7 **Anita Duty:** I don't have a total handy. Let me see.

8 **Donnie Ratliff:** I mean, this number here, I'm within \$100. \$18,422.64 is what I added Table 1  
9 to be.

10 **Anita Duty:** So, the only thing that looks like is remaining in escrow is 0.19 acres. After the  
11 disbursement is done.... I have acreage. I don't really have dollars. It looks like the only thing  
12 remaining is going to be 0.0515 acres, in escrow.

13 **Donnie Ratliff:** Okay.

14 **Anita Duty:** So, it will pretty much take care of it.

15 **Mark Swartz:** If you look at the last page of Exhibit E, it gives that acreage and it says the  
16 percent of unit remaining is .0644%, so you're right, but it's going to be a fairly tiny number.

17 **Anita Duty:** I've got a calculation of what everybody would have been due, if everybody would  
18 have turned their stuff in. Most of them are around \$8.91, \$3.45, the ones that are remaining.

19 **Donnie Ratliff:** Okay.

20 **Bradley Lambert:** Any other questions from the Board? [No response] Do you have anything  
21 further, Mr. Swartz?

22 **Mark Swartz:** I do not.

23 **Bradley Lambert:** Do I have a motion?

24 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

25 **Donnie Rife:** Second, Mr. Chair.

26 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No response]  
27 All in favor signify by saying yes.

28 **Board:** Yes.

29 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

**Item Number 23**

**Bradley Lambert:** We're calling Docket Item Number 23. A petition from CNX Gas Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 4C, as depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the parties listed in the petition. Those wishing to testify, please come forward.

**Mark Swartz:** Mark Swartz and Anita Duty.

**Bradley Lambert:** You may begin, Mr. Swartz.

**Mark Swartz:** Anita, state your name for us.

**Anita Duty:** Anita Duty.

**Mark Swartz:** And you're here, again, on behalf of CNX Gas Company, LLC, with regard, in this petition, to Unit AZ118. Right?

**Anita Duty:** Yes.

**Mark Swartz:** And, we're asking for a disbursement of funds and authorization for direct-pay here?

**Anita Duty:** Yes.

**Mark Swartz:** The reason is Swords Creek and Sallie Breedlove have entered into a split agreement.

**Anita Duty:** Yes.

**Mark Swartz:** If you come down to Table 1, this applies to Tract 4C?

**Anita Duty:** Yes.

**Mark Swartz:** It's a 50/50 agreement. You've identified Swords Creek and Sallie Breedlove, their names, and given addresses. You're asking the Board to instruct the Escrow Agent to take 20.2413% times the balance on hand when the disbursement is made, one is for Swords Creek and one is for Sallie Breedlove, and that will generate the dollar amount they are each to receive?

**Anita Duty:** Yes.

**Mark Swartz:** You've got a revised Exhibit E, showing the escrow requirement, going forward. You've got a revised Exhibit EE, showing the pay status, going forward, if this disbursement is approved. You have certification and notice, where both of these folks have signed for their mail. Right?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** We've got another Exhibit J, reconciliation. Did we have deposit issues or other  
3 transactional issues with this?

4 **Anita Duty:** They've all been taken care of.

5 **Mark Swartz:** Okay. So, as far as you know, everything has been accounted for, in terms of  
6 what you paid in?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Then, when you did your comparison calculation, again, we've got a difference.

9 **Anita Duty:** The bank is showing \$138.87 less.

10 **Mark Swartz:** You've got a note in here that talks about the adjustments that were made to  
11 correct things.

12 **Anita Duty:** Yes.

13 **Mark Swartz:** That's it, Mr. Chairman.

14 **Bradley Lambert:** Just for clarification, to make the point I made earlier, Ms. Duty testified  
15 that the bank has \$138.87 more. That's not showing a negative number.

16 **Anita Duty:** Less.

17 **Mark Swartz:** The chart shows more, but it's a negative number, if you just wanted to compare  
18 the bank to us.

19 **Bradley Lambert:** Sorry to raise the point.

20 **Mark Swartz:** It's okay. We are going to straighten that out because you're right. It's confusing  
21 and we're going to show a negative.

22 **Anita Duty:** If it's negative, the bank's going to be less, going forward. Right now, it's the  
23 opposite.

24 **Bradley Lambert:** Okay.

25 **Mark Swartz:** It's a crap shoot, right now, but going forward, we're going to get it squared up.

26 **Bradley Lambert:** Okay. Thank you. Any other questions from the Board? [No response] Do  
27 I have a motion?

28 **Donnie Rife:** Motion made for approval, Mr. Chair.

1 **Bill Harris:** Second.

2 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
3 response] All in favor signify by saying yes.

4 **Board:** Yes.

5 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

6 **Item Number 25**

7 **Bradley Lambert:** We're calling Docket Item Number 25. A petition from CNX Gas  
8 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
9 Board's Escrow Agent, attributable to Tracts 1 & 3D, as depicted upon the annexed table; (2)  
10 authorization to begin paying royalties directly to the parties listed in the petition; and (3)  
11 dismissal of coal owners. Docket Number VGOB-03-0218-1116-02. All parties wishing to  
12 testify please come forward.

13 **Mark Swartz:** Mark Swartz and Anita Duty.

14 **Bradley Lambert:** You may proceed, Mr. Swartz.

15 **Mark Swartz:** Anita, please state your name.

16 **Anita Duty:** Anita Duty.

17 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC, with regard to this  
18 petition?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, we're asking for a disbursement from escrow, authorization for direct pay,  
21 going forward, and we're going to address some coal owner dismissals, as well.

22 **Anita Duty:** Yes.

23 **Mark Swartz:** The reasons are we've got a split agreement. We've got the operation of House  
24 Bill 2058. Then, we've given some 45-day notices, without responses. Right?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** If we go to Table 1, actually we have two tables, here. Correct?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** We've got a Table 1, which is an exact dollar amount because we had a  
2 transaction, or a sale?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Under Table 1, the Escrow Agent should be directed to pay Daniel Lee Keen  
5 (and you've given his address) the exact sum of \$1,591.30.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Then, if we go to Table 2, this is a percentage table?

8 **Anita Duty:** It is.

9 **Mark Swartz:** With regard to the tracts identified there, you have given the name and address  
10 of each person or company that is supposed to receive a payment.

11 **Anita Duty:** Yes.

12 **Mark Swartz:** This is in the third column, then, from the right-hand side, you've given a  
13 percentage for each person who is receiving a payment, that the Escrow Agent should use to  
14 multiply times the balance on hand, to generate the dollar amount.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** But, these Table 2 payments should only be made after the Table 1 payment has  
17 been made and deducted from the escrow account.

18 **Anita Duty:** Yes.

19 **Mark Swartz:** You've given us a revised Exhibit E, which deals with escrow, going forward.

20 **Anita Duty:** Yes.

21 **Mark Swartz:** A revised Exhibit EE, disclosing payment status, going forward. Correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** We've got proof of mailing. We've got an unclaimed. Who's that, Tucker?

24 **Anita Duty:** The previous owner.

25 **Mark Swartz:** Daniel and Rebecca Tucker. So, the previous owner, that's going to receive the  
26 \$1,000, didn't claim his/her mail. I guess they could deduct the \$1,000 from the escrow account,  
27 theoretically, make the calculations, make the disbursements and we'll just know that that money  
28 is in there for these people, if they ever show up. Right? That ought to work.

1 **Anita Duty:** If that's what we want to do, yes.

2 **Mark Swartz:** Have you followed that?

3 **Bradley Lambert:** No.

4 **Mark Swartz:** Because we didn't get mail to the people who are to get the defined amount,  
5 under Table 1, we can't pay them. Okay?

6 **Anita Duty:** The previous owner.

7 **Mark Swartz:** The previous owner. But, if the Escrow Agent is instructed to subtract the  
8 amount in Table 1 from the balance on hand, when it's going to make the disbursements, and  
9 apply the percentages to what's left, they'll be able to pay those people and we won't have to wait  
10 for the people that didn't claim their mail.

11 **Anita Duty:** But, every disbursement after this, we have to remember that we did that and we  
12 have to do it every time, after.

13 **Mark Swartz:** Right. That's your choice.

14 **Bill Harris:** Can we re-visit that motion earlier?

15 **Anita Duty:** So, we may be able to re-mail. We could try re-mailing it before we do that,  
16 maybe, and see if they will claim it because that's, kind of, going to mess up something, going  
17 forward, when you have a one-time, exact, dollar payment.

18 **Bradley Lambert:** We've done those, before.

19 **Mark Swartz:** The problem is it's staying in there, so unless you subtract this every time you do  
20 a future disbursement...

21 **Rick Cooper:** The future balance.

22 **Bradley Lambert:** So, you're proposing to pay Daniel Keen \$1,591, but you're not going  
23 to...you're going to leave that balance in there?

24 **Mark Swartz:** We need to figure out a way to subtract that money, the exact-pay number, from  
25 the escrow balance, when the Escrow Agent makes the percentage calculations. Otherwise, it's  
26 going to be wrong. So, we have to instruct them to subtract that \$1,500 and, then, apply the  
27 percentages, but leave the \$1,500 in. What Anita is saying, if we do that, then if there are future  
28 disbursements, before these people get their \$1,500, we need to remember every time.

29 **Mary Quillen:** Why can't we go back and approve all of these, with the exception of that one?

30 **Mark Swartz:** Because the numbers will all be wrong.

1 **Anita Duty:** Because he's a one-time payment, an exact dollar amount. He's a previous owner.

2 **Mary Quillen:** Okay. So, he's not going to be getting anything.

3 **Mark Swartz:** The other choice is to just not pay all these people because that guy didn't pick  
4 up his mail.

5 **Anita Duty:** It would give us a chance to re-mail. We could do that and, then, they could know  
6 whether or not we re-mailed.

7 **Mark Swartz:** Give us 30 days and we'll try to re-mail and, if we can't though, then we still  
8 need.... I don't think we want to hold these other people hostage.

9 **Paul Kugelman:** May I ask a question, just for clarification? So, we've got a set of people that  
10 are up for disbursement and one out of the set can't be disbursed, for notice reasons. You can't  
11 do the disbursement and just keep...?

12 **Anita Duty:** He's a previous owner.

13 **Mark Swartz:** Entitle to money, through a date, which is a calculated number, as opposed to a  
14 percentage. If they all got a percentage, it would never be screwed up. We could do it. That's  
15 why we can pull people out.

16 **Paul Kugelman:** How can you do the disbursement, now, if it's so difficult? That's what I don't  
17 understand.

18 **Mark Swartz:** The way to do this would be to take that \$1,500 out of the balance, so you have  
19 an adjusted balance, apply the percentages that we have for these other people. They'll have the  
20 right amounts on the checks.

21 **Paul Kugelman:** Right.

22 **Mark Swartz:** The \$1,500 didn't get paid out, so it's still in escrow, if the guy shows up. We  
23 can write him his \$1,500 check. That would all work, but as Anita says, if we do that, and we're  
24 not going to have a zero balance in the escrow. So, there's going to be future disbursements.  
25 They're all going to be wrong unless we remember to withdraw the \$1,500 before we make the  
26 calculations.

27 **Bradley Lambert:** How's the bank going to red-flag \$1,500 every time, going forward?

28 **Mark Swartz:** We need to tell them.

29 **Rick Cooper:** I guess the easiest thing to do to resolve this, instead of putting the burden on  
30 someone trying to track that, is remove Tract 1 from the petition. Then, we can disburse people  
31 on Tract 3.



1 **Bradley Lambert:** Is this one, Daniel Keen, the only one in Tract...? No, he's not.

2 **Rick Cooper:** No, it's the other people, too, but I agree. It gives the potential error, in the  
3 future. I guess we don't need to set the bank up.

4 **Mark Swartz:** That's not going to work. No, what you're proposing is not going to work. You  
5 still need to take the \$1,500 out.

6 **Anita Duty:** No, he's saying remove the old owner and the new owner and be done with it. Or,  
7 we could just try to re-mail and everything is good the way it is.

8 **Rick Cooper:** Or, continue this to another date.

9 **Mary Quillen:** Continue it until November and re-mail.

10 **Mark Swartz:** And try to re-mail.

11 **Mary Quillen:** That's going to be the simplest thing. Nobody wants to say it. I'll say it.

12 **Rick Cooper:** I don't know if you can do it in November. You might want to move it to  
13 December, if they're 30-day notice.

14 **Mary Quillen:** Oh, that's right! 30-days.

15 **Rick Cooper:** I guess I'd ask Anita, on that. It's a short time period, between here and the next  
16 one, a week later.

17 **Anita Duty:** I'm going to mail it tomorrow.

18 **Mark Swartz:** We don't need to give them 30 days' notice. If they sign for their mail, we're  
19 good.

20 **Anita Duty:** We're just giving them a chance.

21 **Mark Swartz:** If they don't, we'll do what we're talking about or remove the whole tract.

22 **Bradley Lambert:** But, if you remove the whole tract, that's putting Tucker and Virginia  
23 Resources and Raymond Slate and Swords Creek. They won't get any money, if you remove the  
24 whole tract.

25 **Anita Duty:** No, the only person that we were going to pay out today was Daniel Keen and  
26 Virginia Resources and Swords Creek, just that tract.

27 **Bradley Lambert:** Rick suggested we remove the whole tract. There's other people in the tract.

28 **Rick Cooper:** It makes the proportional share incorrect, when there's any remaining people.

1 **Anita Duty:** There are four owners on Tract 1, along with the coal owner that has a royalty  
2 split. Only one of those people we were going to disburse, which is Daniel Keen, which is he is  
3 the one that didn't sign for his mail. So, if you want us to remove Tract 1 from the disbursement,  
4 we can do that and, then, we can still pay Tract 3D.

5 **Rick Cooper:** Or, continue it until a later date.

6 **Anita Duty:** Or, continue it.

7 **Donnie Ratliff:** Could you write the check and let DGO hold it until...?

8 **Rick Cooper:** I don't think DGO wants to hold anything.

9 **Anita Duty:** Let me see the date on this.

10 **Mary Quillen:** Listen. If we postpone it until November, and you go ahead and mail that out,  
11 and if you don't get that back, then you can...

12 **Anita Duty:** We'll be prepared when we come here.

13 **Mary Quillen:** To remove all of Tract 1 and proceed, as Rick has suggested.

14 **Anita Duty:** The W-9 is dated August 2015, so it's newer. He's on several units. I know we've  
15 disbursed, before. I guess he just didn't pick it up, so you want us to re-mail and, if he doesn't  
16 pick it up before we come to the next month's hearing, we'll have him removed before we get  
17 here, that tract removed.

18 **Mary Quillen:** Yes.

19 **Bradley Lambert:** Do we have any questions? We'll continue it until December. [No  
20 response] Okay. That Docket Item is continued until December.

21 **Mary Quillen:** Until December?

22 **Bradley Lambert:** Yes. They'll need until December.

23 **Mark Swartz:** It affects about \$7,000.

## 24 **Item Number 26**

25 **Bradley Lambert:** We're going to call Docket Item Number 26. A petition from CNX Gas  
26 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
27 Board's Escrow Agent, attributable to a portion of Tract 3, as depicted upon the annexed table;  
28 (2) authorization to begin paying royalties directly to the parties listed in the petition; and (3)  
29 dismissal of coal owner. Docket Number VGOB-04-1116-1358-01. All parties wishing to  
30 testify please come forward.

1 **Mark Swartz:** Mark Swartz and Anita Duty. We need to continue this because we are trying to  
2 get some new tract ID's and a plat.

3 **Bradley Lambert:** Okay.

4 **Mark Swartz:** She's trying to find out how long it's going to take.

5 **Bradley Lambert:** Okay.

6 **Mark Swartz:** I'll let you know, in just one moment, if we need December or January.

7 **Bradley Lambert:** Sure.

8 **Mark Swartz:** January

9 **Bradley Lambert:** That item will be continued until January 2017.

10 **Mark Swartz:** Great. Thank you.

11 **Item Number 27**

12 **Bradley Lambert:** We're calling Docket Item Number 27. A petition from CNX Gas  
13 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
14 Board's Escrow Agent, attributable to Tract 1D, as depicted upon the annexed table; and (2)  
15 authorization to begin paying royalties directly to the parties listed to the royalty split agreement  
16 that's listed in the petition. This is Docket Number VGOB-05-0419-1427-03. All parties  
17 wishing to testify please come forward.

18 **Mark Swartz:** Mark Swartz and Anita Duty.

19 **Bradley Lambert:** You may proceed, Mr. Swartz.

20 **Mark Swartz:** Anita, state your name for us, again.

21 **Anita Duty:** Anita Duty.

22 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And, we're asking the Board to consider a disbursement from escrow, direct pay  
25 of some folks, going forward, and to address dismissal of some coal owners. Right?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And, we have some people who entered into a split agreement and that's why  
28 we're here.

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Table 1 shows the result of a 50/50 split agreement. Correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Between Swords Creek Land Partnership and Daniel Ray and Rebecca Tucker.  
5 Let's see if they got their mail. They did not claim their mail. I thought that was a familiar  
6 name. They came up, once before, today.

7 **Anita Duty:** Those are just the ones.

8 **Bill Harris:** The one we just consider.

9 **Anita Duty:** So, we might as well re-mail this one.

10 **Mark Swartz:** We need to continue this to December, as well. We'll re-mail it and see if we  
11 can fix that, by re-mailing.

12 **Bradley Lambert:** That docket item will be continued until December.

13 **Item Number 28**

14 **Bradley Lambert:** We're calling Docket Item Number 28. A petition from CNX Gas  
15 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
16 Board's Escrow Agent, attributable to a portion of Tract 2C, as depicted upon the annexed table;  
17 (2) authorization to begin paying royalties directly to the parties listed in the petition; and (3)  
18 Incorporate the dismissal of coal owner(s) previously dismissed under a board order. This is  
19 Docket Number VGOB-06-0117-1558-02. All parties wishing to testify please come forward.

20 **Mark Swartz:** Mark Swartz and Anita Duty.

21 **Bradley Lambert:** You may proceed, Mr. Swartz.

22 **Mark Swartz:** Anita, state your name for us.

23 **Anita Duty:** Anita Duty.

24 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And, we have another request for disbursement, direct pay and dismissal. Right?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** The basis, here, is we have the impact of House Bill 2058 and we've got some  
2 dismissals, also, under the House Bill. Right?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** If we go to Table 1, it pertains to Tract 2C?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, have you provided the name and address of each person or company that  
7 should receive a disbursement?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And, for each person or company, have you provided, in the second column  
10 from the right-hand edge, a percentage that the Escrow Agent should use, apply it to the balance  
11 on hand when the disbursement is made, and that calculation will, then, generate the dollar  
12 amount for each person or company? Right?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Okay. If that happens, you have given a revised Exhibit E, that shows the  
15 escrow requirements, at that point, going forward. You've also given an Exhibit EE, showing the  
16 pay status, going forward.

17 **Anita Duty:** Yes.

18 **Mark Swartz:** You've got the mailing, here. You've got Lois Casey. I think you re-mailed to  
19 her and got her, if I'm not mistaken. Do you see that?

20 **Anita Duty:** Yes, we did.

21 **Mark Swartz:** Okay. So, we got everybody?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** We've got an Exhibit J, reconciliation. Do we have any corrections or issues  
24 with that?

25 **Anita Duty:** We show that all the deposits are accounted for. There's something wrong with  
26 this calculation, at the bottom. All the deposits are accounted for, so I don't know what that \$624  
27 is. I don't think it's off \$624, but I can't find where the problem is at.

28 **Mark Swartz:** Okay.

29 **Anita Duty:** For every check we wrote, we found a deposit, in the bank.

1 **Mark Swartz:** So, it would have to be a fees and interest issue, then, I guess.

2 **Anita Duty:** It must be. I just don't know. I found this correction.

3 **Mary Quillen:** How old is this?

4 **Mark Swartz:** It started in '08.

5 **Anita Duty:** I found one issue, where, in February 2015, a deposit was missing, but the  
6 following month, they put it in, as a correction. It's for \$626.41, which is what is odd, that  
7 that's...

8 **Mary Quillen:** Oh, so it looks like it's double.

9 **Anita Duty:** It's not really off that. Something is wrong with this and I don't know. Maybe, we  
10 just need to start over, but all the deposits are there. The one that we did find missing was put in,  
11 as a correction.

12 **Mary Quillen:** What did you show as the overage for the bank, was \$600 what?

13 **Anita Duty:** We were showing that the bank was short \$624.33.

14 **Mary Quillen:** Oh.

15 **Anita Duty:** The correction that we were showing was \$626.41.

16 **Mary Quillen:** It looks like they transposed.

17 **Mark Swartz:** But, then, we you do the math, it doesn't work.

18 **Anita Duty:** Yes, so there's something wrong. I don't know what it is. I don't know if you want  
19 to continue it and let me try to figure it out a little bit more. I don't know.

20 **Mary Quillen:** With that much money, I think maybe we ought to continue it.

21 **Anita Duty:** All the deposits are there.

22 **Bill Harris:** What have we done, in the past? Haven't we had this situation before, where we've  
23 continued it, in the past?

24 **Anita Duty:** One of the ones you're seeing, now.... A lot of the ones you saw, today, we're  
25 showing that we have problems with the reconcile reports. Those are the ones, I think, Mr.  
26 Cooper is putting them on the docket, now, instead of them sitting there, with problems. He's  
27 putting them on the docket, for you all to figure out. I don't know if we've really got a record  
28 built for what we've done, in the past.

29 **Bill Harris:** Okay.

1 **Mary Quillen:** With \$600, I really think it needs...

2 **Bill Harris:** But, this dates back to another Escrow Agent. Doesn't it?

3 **Mary Quillen:** Yes, it does. It's because the numbers are so close. I want to say that they have  
4 offset a debit and a credit.

5 **Anita Duty:** Yes, it's something like that. I just haven't found it, yet.

6 **Mary Quillen:** Right.

7 **Mark Swartz:** If we find a deposit for every check we've written, which Anita is saying we  
8 have, then it's an interest and fees issue and we don't have an ability to address that.

9 **Mary Quillen:** And, because of the agency that was the Escrow Agent, at that time, you're  
10 unable to track it because they say they have no record.

11 **Mark Swartz:** They might be able to look at their fees and interest, but we can't.

12 **Mary Quillen:** In 2006?

13 **Mark Swartz:** When did we change to these people?

14 **Bradley Lambert:** '10.

15 **Mary Quillen:** It was the immediate past that they say there's no records available. That's what  
16 I'm saying.

17 **Mark Swartz:** We might want to move forward, here, especially when we've got it now. We're  
18 pretty sure it's in the fees and interest.

19 **Rick Cooper:** I would tell the Board, all records we have for Wachovia, we have scanned and  
20 they are posted on the internet, for all years that we have, are all posted to view.

21 **Mark Swartz:** We're using those numbers, but it's still not working.

22 **Anita Duty:** We've built a database with all of the reports that are out online. So, whenever we  
23 do these reports, it's just a matter of running a query and the numbers come in.

24 **Mary Quillen:** Right.

25 **Bradley Lambert:** What's the Board's pleasure? Do you just want to move forward with it  
26 or...?

27 **Bill Harris:** I think we need to move forward with it. I'm not sure that we need to ask Ms. Duty  
28 to re-visit this, especially since all of the deposits are accounted for.

1 **Bradley Lambert:** Okay.

2 **Donnie Rife:** Something's wrong.

3 **Anita Duty:** All the deposits are there.

4 **Mary Quillen:** They have transposed, somehow, debits and credits because the numbers are too  
5 close. And, for no more money than there was, I think that interest and fees, \$600 is a  
6 little...even though the interest rates were higher, then. Of course, it's hard to say how much has  
7 been paid out from that.

8 **Mark Swartz:** There have been no disbursements on this account.

9 **Mary Quillen:** There's been no disbursements?

10 **Mark Swartz:** Correct. If you net their fees and interest, they're almost \$1,400, to the plus,  
11 using their records.

12 **Mary Quillen:** Oh! Well, because the interest rates were high, in 2006.

13 **Mark Swartz:** On the plus.

14 **Mary Quillen:** Yes. It, very well, could be, then.

15 **Donnie Rife:** We better be finding out because you've not had any disbursements. This, right  
16 here, ought to be as simple as pie. No disbursements.

17 **Mark Swartz:** Well, not for us, because we've got a bank that's no longer contracting with you  
18 all. We've got all these numbers that we can't account for, the bank numbers. We found a  
19 deposit for every one of our checks.

20 **Bradley Lambert:** Well, just March '15 is showing interest of \$636. March '15 is showing  
21 interest of \$636.

22 **Mark Swartz:** It's in their column, somewhere.

23 **Anita Duty:** That's because you're including that correction of \$626.

24 **Bradley Lambert:** They've added that to the interest, so that can't be right.

25 **Mark Swartz:** If you put that back in the balance, then we're only off \$2, aren't we?

26 **Mary Quillen:** Yes.

27 **Anita Duty:** That's what I'm saying. I don't think it is off. It's just there's a problem with how  
28 this spreadsheet....



1 **Mark Swartz:** That affected what you're talking about. We're within \$2, even though...

2 **Anita Duty:** Because all the deposits are there.

3 **Paul Kugelman:** Will the disbursements still be correct?

4 **Bradley Lambert:** No disbursements.

5 **Donnie Rife:** There are no disbursements. It ought to be about as simple as you can get.

6 **Anita Duty:** You would think.

7 **Bradley Lambert:** Board, do we want to move forward?

8 **Donnie Ratliff:** Yes.

9 **Bill Harris:** I think so.

10 **Bradley Lambert:** Okay. You can continue, Mr. Swartz. Are you done?

11 **Mark Swartz:** Yes.

12 **Bradley Lambert:** Okay. Do I have a motion?

13 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

14 **Bill Harris:** Second.

15 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No

16 response] All in favor signify by saying yes.

17 **Board:** Yes.

18 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

19 **Item Number 29**

20 **Bradley Lambert:** We're calling Docket Item Number 29. A petition from CNX Gas

21 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the

22 Board's Escrow Agent, attributable to a portion of Tracts 1D, 1G & 2C, as depicted upon the

23 annexed table; (2) authorization to begin paying royalties directly to the parties listed in the

24 petition; and (3) dismissal of coal owner. This is Docket Number VGOB-06-0117-1559-02. All

25 parties wishing to testify please come forward.

26 **Mark Swartz:** Mark Swartz and Anita Duty.

27 **Bradley Lambert:** You may proceed, Mr. Swartz.

1 **Mark Swartz:** Anita, state your name, again.

2 **Anita Duty:** Anita Duty.

3 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** The reasons we're here. We've got some split agreements. We've got the  
6 operation of House Bill 2058 and we've got some coal claimants to deal with. Right?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** If you go to Table 1, this is a percentage disbursement. It pertains to a portion of  
9 Tract 1D, 1G & 2C. Correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And, you've identified the people and/or companies and/or government agency,  
12 by name. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Have you provided an address for everybody?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And, in the second column from the right-hand side of the page, you've given a  
17 percentage that the Escrow Agent should use when calculating the dollar amounts.

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, that percentage should be multiplied times the balance on hand, when the  
20 dollars are being calculated. That will, then, generate a dollar, for each person.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** You've got a revised Exhibit E, which shows the escrow requirements, going  
23 forward, after the disbursements?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Same thing for payments, going forward. You've got a revised Exhibit EE?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** You've got an affidavit of mailing and everybody got their mail?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Daniel Lee Keen picked up his mail, here.

3 **Anita Duty:** Yes, but not for the other units.

4 **Mark Swartz:** Right. You've got a reconciliation. Do we have any adjustments to that?

5 **Anita Duty:** No.

6 **Mark Swartz:** Were you able to find a deposit for every royalty check?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** When you looked at whether or not there was a difference, a miracle occurred.

9 **Anita Duty:** Yes. Zero.

10 **Bradley Lambert:** We'll record that one.

11 **Mark Swartz:** Yes. That's not going to happen, again.

12 **Anita Duty:** That one started in 2011.

13 **Mark Swartz:** Still, it's pretty cool.

14 **Bill Harris:** It's in red, though. Does that mean something? I'm sorry.

15 **Mark Swartz:** No, you're right.

16 **Anita Duty:** Christmas is coming.

17 **Mark Swartz:** We've got coal owner mailing and let's see if they got their mail. Yes, Swords

18 Creek signed for their mail. Right?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, they need to be dismissed, to the extent that they don't have a split

21 agreement. This is one of those hybrids, where they've got a split agreement on some people, but

22 on others, they don't. So, they're going to be paid and dismissed. I think that's all I have, Mr.

23 Chairman.

24 **Bradley Lambert:** Any questions from the Board? [No response] Do I have a motion?

25 **Donnie Rife:** Motion made for approval, Mr. Chair.

26 **Bill Harris:** Second.

1 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
2 response] All in favor signify by saying yes.

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.

5 **Mark Swartz:** Thank you.

6 **Bradley Lambert:** Thank you.

7 **Bill Harris:** May I just make a quick comment? With this red plus and minuses, I almost like to  
8 see black being used where a difference is...

9 **Anita Duty:** It's positive.

10 **Bill Harris:** Well, now, how do you define positive?

11 **Anita Duty:** What I'm going to do is always report what the bank is showing. If the bank is  
12 negative, it's going to be... I'm just going to say what the bank is, either short.

13 **Bill Harris:** So, if it's red.... I'm trying to change the rules, I guess. If it's black, that means the  
14 bank has more money than you're depositing. If it's red, then the bank has less money than  
15 you're depositing.

16 **Anita Duty:** That's what we're doing.

17 **Bill Harris:** Oh, okay.

18 **Anita Duty:** It will have a negative if it's...

19 **Bill Harris:** Well, see...

20 **Anita Duty:** You don't want a negative.

21 **Bill Harris:** No, I'm just saying that part of the confusion is when do you use a negative and  
22 how is that defined?

23 **Anita Duty:** It's always defined as to what the bank has--either more or less. The bank, not  
24 CNX, just the bank. If the bank has more, it will be black. If the bank has less, it will be red.  
25 Does that work?

26 **Bill Harris:** Yes, that works.

27 **Mark Swartz:** Or a negative. I think it needs to be both.

1 **Bill Harris:** I want to do away with.... That's the problem. We've been using the red, a negative  
2 and, then, red and positive. The red, to me, means that somebody's behind somebody else.

3 **Donnie Rife:** Right.

4 **Anita Duty:** But, you've got to realize there's going to be a transition. We may come here, next  
5 month, and there will be some that are still going to be like this.

6 **Item Number 30**

7 **Bradley Lambert:** We're calling Docket Item Number 30. The Board will receive an update of  
8 Board and Division activities from the staff. Mr. Cooper.

9 **Rick Cooper:** It's so great, that we got to that point. I guess I won't reiterate everything, but the  
10 bank reported the disbursements. We record them, differently, at Gas and Oil. For the record,  
11 since the coal dismissal was approved, in July of last year, as of current, we have disbursed  
12 \$8,400,000, since last fiscal year, since July 2015. In total, since January of last year, a little  
13 over \$10,000,000. I don't need to talk about the unfunded that Anita's going to have taken care  
14 of before the next meeting.

15 **Donnie Rife:** That's pretty impressive.

16 **Anita Duty:** It's not a lot of money, though. It's probably, like, \$300. I take that back. One of  
17 them is \$800 and another one is \$2,000. The other ones are smaller.

18 **Rick Cooper:** That's correct. So, again, those unfunded got established earlier, with a different  
19 process. Once we do away with those, we will no longer have unfunded accounts. The other  
20 thing I wanted to point out, Ms. Gilmer and Ms. Ketron have worked, I would say, since the first  
21 week they have been here, trying to clear up these supplemental orders that have to be sent in.  
22 Just to let you know, I hate to say it out loud, but I'd say we had five or six-hundred of those, that  
23 were outstanding, over a period of years, that we have cleaned up. It's been with the help of all  
24 the companies, too. They've been very cooperative, but there was no processes in place,  
25 historically, to track that, other than someone put it in a file and kept up with it and I think we've  
26 had a history of losing things from that type of process. So, we have implemented a new  
27 process, moving forward, that once you all approve a pooling order, here, we work with our IT  
28 group and there is an electronic mailing system that, after 60 days, will send an email to all  
29 pertinent parties, all the CNX people, if they're pooling, and all of our people, telling them that  
30 we have a supplemental due. After 90 days, if it's not in, I guess, we would have to have some  
31 type of justification or bring it to the Board. So, we have put this process in place to track this. I  
32 do not see why we could ever allow it to have 400 and 500 of these, past due, in doing this  
33 electronically. It just makes it more efficient for everyone. So, we have that kicked in and it  
34 turned on, last week, and six, we call them tickers, went out. Two went to CNX. Two went to

1 Magnum Hunter. Two went to EnerVest, for past due supplements. So, we hope to track that  
2 better, in the future, and once we get all this caught up, it will never go back that way, again.

3 **Mary Quillen:** Six sure beats 500, doesn't it?

4 **Rick Cooper:** It does. I said that, real simple, but it has taken years to get to that point. Owe  
5 most of that to Ms. Gilmer and Ms. Ketron. They have put a lot of time in that.

6 **Mary Quillen:** Thank you, ladies.

7 **Rick Cooper:** That's it.

8 **Bradley Lambert:** Thank you, Mr. Cooper.

9 **Item Number 31**

10 **Bradley Lambert:** Any questions, comments, additions, subtractions that we need from the  
11 September minutes? We didn't have a September meeting. Yes, we did.

12 **Rick Cooper:** We skipped August.

13 **Bradley Lambert:** Okay. If not, I'll ask for approval of those minutes.

14 **Donnie Rife:** Approval of the minutes, provided nobody has anything to add or subtract.

15 **Bradley Lambert:** All in favor signify by saying yes.

16 **Board:** Yes.

17 **Bradley Lambert:** Okay, I need a motion for dismissal.

18 **Donnie Rife:** Motion made, please.

19 **Bill Harris:** Second.

20 **Bradley Lambert:** All in favor indicate by saying goodbye.

21 **Board:** Goodbye.